

**RESOLUTION NO. 41-2020**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP-413-19, SUBJECT TO CONDITIONS, FOR DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 277 KENT ROAD (APN 023-013-030), AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

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**WHEREAS**, an application has been submitted to demolish an existing single-family residence and detached garage and barn, and to construct a new 1,753-square foot (sf), two-story single-family residence, a new 236-sf detached one-car garage, and a new 216-sf carport on a 3,516-sf lot at 277 Kent Road (APN 023-013-030) in Pacifica (File No. 2019-030) ("Project"); and

**WHEREAS**, the Project requires approval of a coastal development permit pursuant to Pacifica Municipal Code (PMC) Section 9-4.4303 on the basis that the Project constitutes "development," as defined in PMC Section 9-4.4302(z)(7), because it involves the "construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public or municipal utility", and the Project does not qualify as a category of excluded development since it is located within the Coastal Commission's appeal jurisdiction [see PMC Section 9-4.4303(i)(2)]; and

**WHEREAS**, after holding a duly noticed public hearing on April 20, 2020, the Planning Commission of the City of Pacifica adopted Resolution No. 2020-007 approving Coastal Development Permit CDP-413-19; and

**WHEREAS**, an appeal was filed by Allison West ("Appellant") on April 30, 2020, in opposition to the Planning Commission's action ("Appeal"); and

**WHEREAS**, the City Council of the City of Pacifica did hold a duly noticed public hearing on June 22, 2020, at which time it considered all oral and documentary evidence presented relating to the Appeal, and incorporated all testimony and documents into the record by reference.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the City Council relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby deny the Appeal based upon all of the reasons set forth in the Staff Report and upholds the Planning Commission's Approval on April 20, 2020, and makes the following findings pertaining to its denial of the appeal of the Planning Commission's action to approve the Project:

Basis 1: *The Project is Not Categorically Exempt Under the California Environmental Quality Act (CEQA) Due to Erosion and Hazards*

Summary of Appellant's comments: The Appellant contends that "the project is not exempt from CEQA" and that an Environmental Impact Report (EIR) is required due to erosion and the Project site being located "in a known hazard zone."

Staff Response: The City has an obligation under the California Environmental Quality Act ("CEQA") to evaluate the potential environmental impacts of a discretionary action, such as the approval of a discretionary permit for a development (Public Resources Code Section 21080(a)). However, certain discretionary actions are exempt from environmental review (Public Resources Code Section 21080(b)(9); see also Public Resources Code Section 21084). The Secretary of the Natural Resources Agency has utilized this statutory authority to provide a list of categorical exemptions which are reflected in Section 15300 et seq. of the CEQA Guidelines (California Code of Regulations Title 14, Division 6, Chapter 3).

The Planning Commission's CEQA findings are set forth starting on the first page of Resolution No. 2020-007. Consistent with staff's recommendation, the Planning Commission found the project to be categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303. Section 15303 states in part:

**15303. New Construction or Conversion of Small Structures**

*Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:*

- (a) *One single-family residence or a second dwelling unit in a zone which permits residential uses. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption;*

In this case, the Project involves the demolition of one existing single-family residence and detached garage and barn, and the construction of one single-family residence in a residentially zoned district, along with a detached garage and carport. Accordingly, the Project qualifies for the exemption provided in Section 15303, "unless the project falls within an exception to the categorical exemption" (Aptos Residents Assn. v. County of Santa Cruz (2018) 20 Cal.App.5th 1039, 1046).

Section 15300.2 of the CEQA Guidelines describes circumstances under which the exemptions may be inapplicable. The Planning Commission considered these exceptions to application of a categorical exemption, and found that none of the exceptions provided in Section 15300.2 of the CEQA Guidelines apply as described below (beginning on p. 2 of Resolution No. 2020-007).

- *Sec. 15300.2(a): Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated,*

*precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.*

“There is no evidence in the record that the Project would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies. The Project is the demolition of an existing single-family residence, detached garage, and barn, and construction of a two-story single-family residence, and detached one-car garage, and carport and there is no evidence in the record that the Project would impact an environmental resource of hazardous or critical concern.”

Appellant provides that an EIR is required due to “erosion and hazards.” Appellant is unclear regarding what hazards are present, and is also unclear how any such hazards would constitute an environmental issue for purposes of CEQA analysis. The City evaluated hazards which may be present on the project site and identified potential coastal erosion and seismically-induced hazards. There is no evidence in the record to demonstrate the coastal erosion and/or seismically-induced hazards warrant further review under CEQA as potentially significant impacts on the environment. Rather, the City appropriately analyzed the hazards outside the CEQA context and determined coastal erosion would not be expected to affect the proposed single-family residence or detached garage, and also determined that a properly engineered foundation design could allow the single-family residence and detached garage to be safely constructed on the site. With respect to Appellant’s claim that erosion prevents the application of the Class 3 exemption to this Project, there is no evidence in the record to support that Project is in an environmentally sensitive area, or that it will have an impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. Thus, this exception does not apply.

- *Sec. 15300.2(b): Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.*

“There is no evidence in the record that the cumulative impact of successive projects of the same type in the same place, over time is significant. In staff’s assessment the subject Project and the proposed project on the adjacent 1300 Danmann Avenue site are not “successive projects of the same type in the same place.” The subject Project is a single-family residence consisting of a two-story residential structure and off-street parking facilities consisting of a detached garage and carport. In contrast, the proposed project at 1300 Danmann Avenue is a mixed-use project consisting of a three-story building with ground floor commercial use and up to two stories of residential use spread across six residential units above, with off-street parking facilities consisting of surface parking spaces (a small number of which may be covered with carports). Additionally, while the same proponent is pursuing a project on both the Project site and the 1300 Danmann Avenue site which will be considered at a future Planning Commission public hearing, the projects serve different purposes and they can be implemented independently. There is no shared infrastructure which would enable one project to occur subsequent to the other, and the uses are unrelated to one another. Lastly, there is no evidence in the record of any significant environmental impacts which would occur on a cumulative basis from both projects.”

Appellant provides that an EIR is required due to “erosion and hazards.” Appellant is unclear regarding what hazards are present, and is also unclear how any such hazards would constitute an environmental issue for purposes of CEQA analysis. The City evaluated hazards which may be present on the project site and identified potential coastal erosion and seismically-induced hazards. There is no evidence in the record to demonstrate the coastal erosion and/or seismically-induced hazards warrant further review under CEQA as potentially significant impacts on the environment. Rather, the City appropriately analyzed the

hazards outside the CEQA context and determined coastal erosion would not be expected to affect the proposed single-family residence or detached garage, and also determined that a properly engineered foundation design could allow the single-family residence and detached garage to be safely constructed on the site. With respect to Appellant's claim that erosion prevents the application of the Class 3 exemption to this Project, there is no evidence in the record to support that there will be a cumulative impact on coastal erosion and seismically-induced hazards from the Project and any other projects in the vicinity. Thus, this exception does not apply.

- *Sec. 15300.2(c): Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*

“There is no evidence of any unusual circumstances nor is there any evidence of the possibility that the Project would have a significant effect on the environment due to unusual circumstances. The Project is the demolition of an existing single-family residence, detached garage, and barn and construction of a two-story single-family residence, and detached one-car garage, and carport and no unusual circumstances appear to exist.”

Appellant provides that an EIR is required due to “erosion and hazards.” Appellant is unclear regarding what hazards are present, and is also unclear how any such hazards would constitute an environmental issue for purposes of CEQA analysis. The City evaluated hazards which may be present on the project site and identified potential coastal erosion and seismically-induced hazards. There is no evidence in the record to demonstrate the coastal erosion and/or seismically-induced hazards warrant further review under CEQA as potentially significant impacts on the environment. Rather, the City appropriately analyzed the hazards outside the CEQA context and determined coastal erosion would not be expected to affect the proposed single-family residence or detached garage, and also determined that a properly engineered foundation design could allow the single-family residence and detached garage to be safely constructed on the site. Furthermore, there is no evidence that a hazard risk to the site would constitute an unusual circumstance. Thus, this exception does not apply.

- *Sec. 15300.2(d): Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.*

“The Project is not proposed within a highway officially designated as a state scenic highway. Therefore, the provisions of subsection (d) are not applicable to this Project.”

Appellant does not contend that the Project is located within a scenic highway and there is no evidence that this exception applies, as no designated scenic highway is within close proximity to the Project. Thus, this exception does not apply.

- *Sec. 15300.2(e): Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.*

“The Project is not proposed on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. Therefore, the provisions of subsection (e) are not applicable to this Project.”

Appellant does not contend that the Project is located within a hazardous waste site. Thus, this exception does not apply.

- *Sec. 15300.2(f): Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.*

“The Project will not cause a substantial adverse change in the significance of a historical resource. There are potential historic resources located in the vicinity of the Project site and potential historic resources are located on the Project site itself. However, a report prepared by a qualified architectural historian, Christopher VerPlanck of VerPlanck Historic Preservation Consulting (December 19, 2019) (Attachment E of the [Planning Commission] Staff Report [from April 20, 2020]) evaluated potential historic resources in the vicinity of the Project site, and concluded the proposed Project will not cause a substantial adverse change in the significance of a historical resource. Specifically, the report prepared by a qualified architectural historian concludes that the existing buildings on the Project site are dilapidated, wood-frame, vernacular structures, and that none of these structures are listed on a local, state, or national register of historic places. Moreover, the report concluded that the potentially historic buildings known as the Pedro Point Firehouse, Tobin Station, and 1476 and 1482 Danmann Avenue would not be adversely impacted by the proposed Project.”

Appellant does not contend that the Project implicates historical resources, nor is there evidence in the record to support such a claim. Thus, this exception does not apply.

Because the Project is consistent with the requirements for a Class 3 categorical exemption pursuant to CEQA Guidelines Section 15303, and because none of the exceptions to application of a categorical exemption provided in CEQA Guidelines Section 15300.2 apply, there is substantial evidence in the record to support a finding that the Project is categorically exempt from CEQA and an EIR is not required. Therefore, staff recommends that the City Council reject this basis for appeal.

#### Basis 2: 100-year Design Life Consideration

Summary of Appellant’s comments: The Appellant provides that the City “requires a 100-year design life,” and that the Project does not meet this requirement.

Staff Response: The 100-year design life requirement is found in the City’s Local Coastal Land Use Plan (LCLUP). It states that the bluff setback and overall design lifetime of a project is required to be adequate to accommodate a minimum 100-year hazard event (LCLUP, C-19). All “appropriate setbacks [should] be determined on a case-by-case basis, depending on the site specific circumstances and hazards” (LCLUP, C-19).

The Planning Commission considered geotechnical hazards based on information in the staff report and in testimony at the public hearing before approving the project. The applicant prepared a site-specific geotechnical analysis prepared by a qualified professional geotechnical engineer based on actual observed erosion rates between years 1955 and 2000 (Attachments G and H). The geotechnical analysis indicated that bluff erosion based on rates historically observed at this site over the next 100 years was projected between 10 and 40 feet. With this level of projected erosion over 100 years, erosion would reach the northern most corner of the property, but it would not reach the proposed structure. Because the southern side of Shelter Cove Road is more than 40 feet from the closest portion of the bluff, it would be unlikely that bluff erosion reaches the property. The geotechnical engineer also evaluated a more severe potential erosion scenario based on a shorter period of more recent erosion observations between 2002 and 2018,

including several years with severe storms, and calculated 58 to 62 feet of projected erosion over 100 years. Even under this more severe scenario, erosion would reach approximately 8 to 10 feet into the rear property line over 100 years, and would not affect the proposed structure which would have a rear setback of more than 20 feet (Attachment D, p. 3; Attachment E, Sheet A1.1). During building permit review, the rear setback will be further maximized to the greatest extent practicable while complying applicable code requirements, such as building separation standards, to the Planning Director's satisfaction.

The geotechnical analysis did identify the potential for seismically-induced landslide on the site, but indicated the site is underlain by competent bedrock materials which will enable a suitable foundation design to mitigate this hazard. Therefore, the geotechnical engineer concluded that large-scale seismically induced landslide risk is relatively low for the site if all structures are constructed with the recommended foundation design. Condition of approval No. 26 ensures that the project will be built in accordance with all recommendations detailed in the preliminary geotechnical investigation (Attachment B, p. A-4). Given the project site is located approximately 90 feet from the ocean at its closest point, the proposed single-family residence would be located another 20 feet or more into the property, and an engineering design for the foundation would mitigate seismically-induced landslide risk for the project, there is no information to suggest that the proposed development will be subject to high geologic, flood, or fire hazard during its design life, which is analyzed to be 100 years. Therefore, there is sufficient information to support that the project would be consistent with the 100-year design life, as required in the City's LCP. Staff recommends that the City Council reject this basis for appeal.

### Basis 3: Consideration for Lot Merger with Adjacent Parcels

Summary of Appellant's comments: The Appellant states the City "was required to merge substandard lots with adjacent lots owned by the same person" and therefore asserts that "[t]hese lots should be merged."

Staff Response: Although the Appellant does not state which "adjacent lots" should be merged, staff believes that the Appellant is referring to the adjacent lots located at the north quadrant of the intersection of Kent Road and Danmann Avenue in the 1200 block of Danmann Avenue (APNs 023-013-010 and 023-013-020). The criteria for merger of nonconforming lots are contained in PMC Section 10-1.1201, and require an evaluation of the nonconforming lot and all contiguous lots or parcels that are in common ownership.

Staff provided the Planning Commission with an analysis of the criteria for lot merger and concluded, based on information contained in the project file, that the subject lot does not meet the criteria in subsection (a) of PMC Section 10-1.1201 for merger with the adjacent lots in common ownership for several reasons (Attachment C, p. 3). Firstly, the historic use of 277 Kent Road was residential while the historic use of the adjacent parcels (referred to in the April 20 Planning Commission staff report as "1300 Danmann") has been commercial use. A qualified architectural historian, hired by the Applicant, estimates the structures on both lots were constructed between 1915 and 1930, when the County of San Mateo did not impose building permit requirements on commercial structures or residential structures. Therefore, both affected lots are developed by structures for which building permits were not required at the time of construction. Secondly, neither site is developed with only an accessory structure or structures. The structure near the northern property line of 1300 Danmann Avenue is not an accessory structure to 277 Kent Road, but is instead a commercial structure related to the prior commercial use of the 1300 Danmann Avenue site, where other affiliated commercial buildings are believed to have burned down in the 20th century. Lastly, neither site is developed with a structure other than an accessory structure which is also partially sited on the other site. For these reasons, the subject lot does not meet the criteria in subsection (a) of PMC Section 10-1.1201 and therefore does not need to be merged with the adjacent lots.

The Planning Commission considered information relevant to the merger of the subject site with adjacent parcels, and staff demonstrated to the Planning Commission that merger of these lots was not warranted. Furthermore, there is sufficient information to support a finding that the City was not required to merge the subject site with adjacent parcels. Therefore, staff recommends that the City Council reject this basis for appeal.

Basis 4: Concern with California Slender Salamanders, Identified in Coastal Commission Letter

Summary of Appellant's comments: Appellant provides that an EIR is required due to the Coastal Commission's observation of California Slender Salamanders at the Project site, and that the City "denied protection of [the] species."

Staff Response: The Planning Department received a comment from the California Coastal Commission (CCC) in an email dated March 10, 2020, which noted the presence of a California Slender Salamander which was observed on or adjacent to the project site by the applicant's biologist. As determined by the California Department of Fish and Wildlife, the California Slender Salamander is not a special status species (California Department of Fish and Wildlife Special Animal List, available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>). Therefore, there are no special requirements under CEQA or any other law to further study the presence of the California Slender Salamander prior to making a determination on the pending discretionary action.

Furthermore, as described above in discussion of Basis 1, the proposed project is categorically exempt from environmental review under CEQA and no exceptions to application of a categorical exemption apply. Therefore, the project does not require an EIR on this basis.

Because the California Slender Salamander is not a special status species, and because the project is categorically exempt from environmental review under CEQA and no exceptions to application of a categorical exemption apply, there is sufficient information to conclude that there is no legal requirement to provide protection to the California Slender Salamander and that preparation of an EIR is not required. Therefore, staff recommends that the City Council reject this basis for appeal.

Basis 5: Violation of SB 379

Summary of Appellant's comments: The Appellant claims that the City is "possibly in violation of SB379."

Staff Response: California Senate Bill 379 requires all cities and counties to include climate adaptation strategies, goals, and policies in their General Plans. Specifically, the law requires public agencies to update their General Plans' safety elements upon the city or county's next revision of a General Plan. If the local agency has a Local Hazard Mitigation Plan, beginning on January 1, 2017, the law requires that the public agency revise the plan to address climate adaptation and resiliency, and the plan can be incorporated by reference into the agency's General Plan safety element. SB 379 does not require public agencies to take any specific action with respect to a development project.

Although Appellant alleges a violation of SB 379, Appellant has not described the nature of any purported violation. However, there is no evidence in the record to support that the Planning Commission's approval of the Development Permit violates SB 379.

The City updated its Local Hazard Mitigation Plan in 2016, which included an evaluation of climate change impacts on the natural hazards facing Pacifica and the County of San Mateo. In addition, the City

is currently updating its General Plan, which will include reference to the Local Hazard Mitigation Plan in the safety element. Furthermore, to the extent that Appellant's comments could possibly be construed to allege an inconsistency with the Local Hazard Mitigation Plan, there is no evidence to support such a claim. Nothing in the City's Local Hazard Mitigation Plan precludes the City's approval of the Development Permit.

Accordingly, based on the facts (1) that the City revised the Local Hazard Mitigation Plan in 2016 in accordance with the timelines specified in SB 379, and (2) nothing in the Local Hazard Mitigation Plan precludes the issuance of a Development Permit for the Project, staff recommends that the City Council reject this basis for appeal.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the finding that the project qualifies for a Class 3 exemption under California Environmental Quality Act (CEQA) Guidelines Section 15303. CEQA Guidelines Section 15303 applies to the Project as described below:

1. That the Project is exempt from the CEQA as a Class 3 exemption provided in Section 15303 of the CEQA Guidelines, which state in pertinent part as follows:

**15303. New Construction or Conversion of Small Structures**

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

\* \* \* \* \*

In this case, the Project involves the construction of one single-family residence in a residential zone. Therefore, the Project is exempt from further analysis under CEQA.

Additionally, none of the exceptions to application of a categorical exemption in Section 15300.2 of the CEQA Guidelines apply, as described below.

- Sec. 15300.2(a): There is no evidence in the record that the Project would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies. The Project is the demolition of an existing single-family residence, detached garage, and barn, and construction of a two-story single-family residence, and detached one-car garage, and carport and there is no evidence in the record that the Project would impact an environmental resource of hazardous or critical concern.
- Sec. 15300.2(b): There is no evidence in the record that the cumulative impact of successive projects of the same type in the same place, over time is significant. In staff's assessment the subject Project and the proposed project on the adjacent site in



the 1200-block of Danmann Avenue (known as the “1300 Danmann Avenue” project), the two projects are not “successive projects of the same type in the same place.” The subject Project is a single-family residence consisting of a two-story residential structure and off-street parking facilities consisting of a detached garage and carport. In contrast, the proposed 1300 Danmann Avenue project is a mixed-use project consisting of a three-story building with ground floor commercial use and up to two stories of residential use spread across six residential units above, with off-street parking facilities consisting of surface parking spaces (a small number of which would be covered with carports). Additionally, while the same proponent is pursuing a project on both the Project site and the 1300 Danmann Avenue site, the projects serve different purposes and they can be implemented independently. There is no shared infrastructure which would enable one project to occur subsequent to the other, and the uses are unrelated to one another. Lastly, there is no evidence in the record of any significant environmental impacts which would occur on a cumulative basis from both projects.

- Sec. 15300.2(c): There is no evidence of any unusual circumstances nor is there any evidence of the possibility that the Project would have a significant effect on the environment due to unusual circumstances. The Project is the demolition of an existing single-family residence, detached garage, and barn and construction of a two-story single-family residence, and detached one-car garage, and carport and no unusual circumstances appear to exist.
- Sec. 15300.2(d): The Project is not proposed within a highway officially designated as a state scenic highway. Therefore, the provisions of subsection (d) are not applicable to this Project.
- Sec. 15300.2(e): The Project is not proposed on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. Therefore, the provisions of subsection (e) are not applicable to this Project.
- Sec. 15300.2(f): The Project will not cause a substantial adverse change in the significance of a historical resource. There are potential historic resources located in the vicinity of the Project site and potential historic resources are located on the Project site itself. However, a report prepared by a qualified architectural historian, Christopher VerPlanck of VerPlanck Historic Preservation Consulting (December 19, 2019) (Attachment G of the April 20, 2020, Planning Commission Staff Report) evaluated potential historic resources in the vicinity of the Project site, and concluded the proposed Project will not cause a substantial adverse change in the significance of a historical resource. Specifically, the report prepared by a qualified architectural historian concludes that the existing buildings on the Project site are dilapidated, wood-frame, vernacular structures, and that none of these structures are listed on a local, state, or national register of historic places. Moreover, the report concluded that the potentially historic buildings known as the Pedro Point Firehouse, Tobin Station, and 1476 and 1482 Danmann Avenue would not be adversely impacted by the proposed Project.

Because the Project is consistent with the requirements for a Class 3 exemption and none of the exceptions to applying an exemption in Section 15300.2 apply; therefore, there is substantial evidence in the record to support a finding that the Project is categorically exempt from CEQA.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the following findings pertaining to Coastal Development Permit CDP-413-19:

- i. Required Finding: *The proposed development is in conformity with the City's certified Local Coastal Program.*

The City's certified Local Coastal Program includes a Local Coastal Land Use Plan (LCLUP) that contains policies to further the City's coastal planning activities. The proposed project is consistent with several of these policies, as discussed below.

· Coastal Act Policy No. 2: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rock coastal beaches to the first line of terrestrial vegetation.*

The proposed Project does not interfere with the public's right of access to the sea. It will be undertaken on an existing developed lot with all development located more than 100 feet from the sea. Importantly, the Project site is not an oceanfront lot, is separated from the sea by a private road (Shelter Cove Road), and there is not currently coastal access from the site. The Danmann Avenue public right-of-way, which runs north-south to the east of the Project site, provides access to points closer to the sea and is not affected by this Project. Therefore, the Project would have no impact or otherwise interfere with the public's right of access to the sea.

· Coastal Act Policy No. 23: *New development, except as otherwise provided in this policy, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources... [the remainder of this policy pertains to land divisions and visitor-serving facilities, neither of which are part of the subject Project.]*

The new development proposed with this Project is located within an existing developed residential neighborhood. The Pedro Point neighborhood is a substantially developed suburban neighborhood with subdivided lots, most of which have already been developed with single-family homes, including the lots on either side of the Project site. The Project site itself is currently developed, and will reestablish the same type and intensity of use (single-family residential) following demolition of the existing structures on the site. Therefore, development would not occur outside of existing developed areas.

· Coastal Act Policy No. 26, Subsections (a) and (b): *New development shall:*

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

*[The provisions of Subsections (c) through (e) are not directly applicable to the subject Project because of its small size consisting of one single-family residential dwelling unit.]*

The new development proposed with this Project would be consistent with Subsections (a) and (b) of Coastal Act Policy No. 26. The applicant prepared a site-specific geotechnical analysis prepared by a qualified professional geotechnical engineer. The geotechnical analysis indicated that bluff erosion over the next 100 years was projected to be between 10 and 40 feet. The geotechnical analysis did identify the potential for seismically-induced landslide on the site, but indicated the site is underlain by competent bedrock materials which will enable a suitable foundation design to mitigate this hazard. Therefore, the geotechnical engineer concluded that large-scale seismically induced landslide risk is relatively low for the site if all structures are constructed with the recommended foundation design. Given the Project site is located approximately 90 feet from the ocean at its closest point, the proposed single-family residence would be located another 20 feet or more into the property, and an engineering design for the foundation would mitigate seismically-induced landslide risk for the Project, there is no information to suggest that the proposed development will be subject to high geologic, flood, or fire hazard during its design life, which is assumed for purposes of this analysis to be 100 years. Therefore, there is sufficient information to support a finding that the Project would be consistent with this policy.

In addition, the LCLUP establishes a design review requirement for sites located in the appeal jurisdiction of the Coastal Zone. Therefore, the following analysis applies the Design Guidelines to the proposed Project to fulfill the design review requirement.

The proposed Project complies with the following Design Guidelines.

- a. Building Design: The style and design of the new buildings should be in character with that of the surrounding neighborhood. Additions to an existing structure should also retain and be consistent with the positive architectural features of the original structure.
- b. Scale: An important aspect of design and compatibility is scale. A development can be out of scale with its surroundings due to its relative height, bulk, mass, or density. A structure which is out of scale with its site and neighborhood threatens the integrity of the overall streetscape, and residential projects, particularly single-family dwelling which are much larger than neighboring structures are therefore discouraged.
- c. Materials: Compatibility of materials is an essential ingredient in design quality. Consistency and congruity of materials and design elements on individual structures is also important.

The proposed single-family residence has a small scale when viewed from Kent Road, especially given the low height of the detached garage and carport which are located closest to the public right-of-way. The substantial setback of the main residential building further reduces the perceived scale of the project. The materials and architectural style of the proposed single-family residence are in character with the surrounding area to the extent there is any commonality in the area's architecture given the wide variety of home styles and materials which are present. For these reasons, the proposed Project is consistent with the Design Guidelines.

The City's certified Local Coastal Program also includes an Implementation Plan (IP) to implement the policies contained in the LCLUP. The IP generally consists of the City's

zoning provisions and other PMC provisions relating to the regulation of development and coastal resources protection. The proposed Project would comply with applicable setback, lot coverage, height, parking, and other requirements of the R-1 zoning district (PMC Section 9-4.402) and applicable provisions of the nonconforming zoning regulations (PMC Section 9-4.3002(a)). In particular, the Project will achieve compliance with all standards for development on a nonconforming lot set forth in PMC Section 9-4.3002(a), including but not limited to limitations on floor area, planting of a tree in the front setback, off-street parking areas, setbacks, and height.

Because the proposed Project would be undertaken in an existing area substantially developed with single-family homes, will be setback more than 100 feet from the sea, will not obstruct access to the sea, will not be subject to high geologic, floor, or fire hazards, and will comply with all applicable zoning regulations; therefore, there is substantial evidence in the record to support a City Council finding that the proposed development is in conformity with the City's certified Local Coastal Program.

- ii. Required Finding: *Where the Coastal Development Permit is issued for any development between the nearest public road and the shoreline, the development is in conformity with the public recreation policies of Chapter 3 of the California Coastal Act.*

The Project site is located between the shoreline and the nearest public road, San Pedro Avenue. However, the Project is located more than 100 feet from the shoreline and is not located on an oceanfront parcel or on an upland parcel upon which coastal recreation is dependent. Therefore, the Project would not affect public recreation along the shoreline and thus, by extension, must be found to be in conformity with the public recreation policies of Chapter 3 of the California Coastal Act.

Because the Project would be consistent with the City's Design Guidelines and several Local Coastal Land Use Plan policies and Implementation Plan standards, and because the Project would be in conformity with the public recreation policies of Chapter 3 of the California Coastal Act, therefore, there is substantial evidence in the record to support City Council approval of a Coastal Development Permit.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that based on the aforementioned findings, the City Council of the City of Pacifica approves and issues Coastal Development Permit CDP-413-19 for demolition of an existing single-family residence, barn and detached garage and construction of a new 1,753-sf, two-story single-family residence, a new 236-sf detached one-car garage, and a new 216-sf carport on a 3,516-sf lot at 277 Kent Road (APN 023-013-030), subject to conditions of approval included in Exhibit A to this Resolution.

\* \* \* \* \*

Passed and adopted at a regular meeting of the City Council of the City of Pacifica, California, held on the 22nd day of June 2020.

AYES, Councilmember: Beckmeyer, Bier, O'Neill, Vaterlaus

NOES, Councilmember: Martin

ABSENT, Councilmember: N/A

ABSTAIN, Councilmember: N/A

*Deirdre Martin*

Deirdre Martin (Jul 8, 2020 16:46 PDT)

Deirdre Martin, Mayor

ATTEST:

*Sarah Coffey*

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

*Michelle Marchetta Kenyon*

Michelle Marchetta Kenyon, City Attorney

## **Exhibit A**

**Conditions of Approval: File No. 2019-030 – Demolition of an existing single-family residence and detached garage and barn, and construction of 1,753-sf, two-story single-family residence, a 236-sf detached one-car garage, and a 216-sf carport on a 3,516-sf lot.**

**City Council Meeting of June 22, 2020**

### **Planning Division of the Planning Department**

1. Development shall be substantially in accord with the plans entitled 277 Kent Road received by the City of Pacifica on March 2, 2020, except as modified by the following conditions.
2. The approval or approvals is/are valid for a period of one year from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval(s) shall expire unless Applicant submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, in the Planning Director's sole discretion, the circumstances considered during the initial Project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension. In the event of litigation filed to overturn the City's determination on the approval or approvals, the Planning Director may toll the expiration of the approval or approvals during the pendency of such litigation.
3. The approval letter issued by the City and all conditions of approval attached thereto shall be included as plan sheets within all plan sets submitted to the City as part of any building permit application.
4. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's Project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.
5. Exterior lighting shall include buffering techniques to reduce light and glare impacts to adjacent properties to the satisfaction of the Planning Director.

6. All trash and recycling materials, if stored outdoors, shall be fully contained and screened from public view within an approved enclosure. The enclosure design shall be consistent with the adjacent and/or surrounding building materials, and shall be sufficient in size to contain all trash and recycling materials, as may be recommended by Recology of the Coast. Trash enclosure and dumpster areas shall be covered and protected from roof and surface drainage. Prior to the issuance of a building permit, Applicant shall provide construction details for the enclosure for review and approval by the Planning Director.
7. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
8. All outstanding and applicable fees associated with the processing of this Project shall be paid prior to the issuance of a building permit.
9. Prior to issuance of a building permit, Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction.

**Engineering Division of the Public Works Department**

10. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and the San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented, and the construction BMPs plans sheet from the Countywide program shall be included in the Project plans.
11. The following requirements must be clearly noted on the construction plans for the Project:
  - a. Kent Road shall be maintained clear of construction materials, equipment, storage, debris, and soil. Dust control and daily road cleanup will be strictly enforced. A properly signed no-parking zone may be established during normal working hours only.
  - b. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to occupancy of the first unit.
  - c. Existing public improvements within the property frontage that are damaged or displaced shall be repaired or replaced as determined by the City Engineer even if damage or displacement occurred prior to any work performed for this Project. Any damage to improvements within city right-of-way or to any private property, whether adjacent to subject property or not, that is determined by the City Engineer to have resulted from construction activities related to this Project, shall be repaired or replaced as directed by the City Engineer.
12. All utilities shall be installed underground from the nearest joint pole or box.

13. No private structures, including but not limited to walls or curbs, fences, mailboxes, or stairs shall encroach into the public right-of-way.
14. Prior to approval of the Building Permit, applicant shall provide an erosion control plan.
15. Applicant shall submit to Engineering Division the construction plans and necessary reports and engineering calculations for all on-site and off-site improvements to the satisfaction of the City Engineer. Such plans and reports shall include but are not limited to:
  - a. an accurate survey plan, showing:
    - i. survey marks and identifying the reference marks or monuments used to establish the property lines;
    - ii. property lines labeled with bearings and distances;
    - iii. edge of public right-of-way;
    - iv. any easements on the subject property
  - b. a site plan, showing:
    - i. the whole width of right-of-way of Kent Road, including existing and proposed improvements such as, but not limited to, pavement overlay, under-sidewalk drain, driveway approach, sidewalk, curb & gutter, existing underground utilities and trenches for proposed connections, boxes for underground utility connections and meters, existing power poles and any ground-mounted equipment, street monuments, any street markings and signage;
    - ii. the slope of Kent Road at the centerline;
    - iii. adjacent driveways within 25' of the property lines
    - iv. any existing fences, and any structures on adjacent properties within 10' of the property lines.
  - c. All plans and reports must be signed and stamped by a California licensed professional.
  - d. All site improvements including utilities and connections to existing mains must be designed according to the City Standards and to the satisfaction of the City Engineer.
16. Per the adopted City of Pacifica Complete Street Policy, development shall include but not limited to pedestrian facilities. Applicant shall construct new curb, gutter and sidewalk and driveway approach ramp per City Standards. Alignment shall be consistent with adjacent property and proposed development at 1300 Danmann Avenue.
17. The driveway approach must be ADA compliant with no more than 2% cross slope for a width of at least 48 inches. The transition from 2% out-slope to the in-slope driveway shall be sufficiently gradual to avoid vehicles to contact the pavement at the grade breaks. Driveway within City right-of-way shall not exceed 18% and portion exceeding 15% grade shall be grooved concrete. Provide structural section of the driveway within City Right of Way.
18. The existing street pavement shall be cold-planed (ground) to a depth of 2" across the entire frontage of the property and out to the centerline of Kent Road, or to the extent of the longest utility trench if beyond the centerline, and an overlay of Caltrans specification ½" Type 'A' hot mix asphalt concrete shall be placed. If, in the opinion of the City



Engineer, damage to the pavement during construction is more extensive, a larger area may have to be ground & overlaid.

19. A City of Pacifica Encroachment Permit shall be obtained for all work undertaken in the public right-of-way. All work shall be done in accordance with City Standards, Caltrans Standard Specifications, Pacifica Municipal Code, Administrative Policies, and to the satisfaction of the City Engineer or his designee, and they shall be completed prior to issuance of the Certificate of Occupancy. Fees shall be per Administrative Policy #2.

**Building Division of the Planning Department**

20. Revise cover page of plan set to indicate applicable 2019 editions of codes.
21. Building code data:
  - a) Occupancy: add fully sprinklered.
  - b) Fire sprinklers: Yes – (N) building.

**Fire Department**

22. Fire sprinkler system required for building per City Ordinance. Install per NFPA 13D. Submit under separate fire permit. System shall be centrally monitored if over 20 sprinkler heads.
23. Obtain water flow information from North Coast County Water District. Incorporate the flow information into fire sprinkler design.
24. Smoke Detectors and CO monitors required per CBC.
25. Clearly visible address identification required on building.

**Added by Planning Commission on April 20, 2020**

26. All recommendations detailed in the preliminary geotechnical investigation by GeoForensics, Inc. dated November 2019, shall be incorporated into the project plans and approved by the Building Official prior to issuance of a building permit.

**Added by City Council on June 22, 2020**

27. Prior to the issuance of a building permit, Applicant shall revise the Project plans to maximize the rear property line setback to the single-family residence in order to maximize the distance between the single-family residence and the bluff to the north due to potential future coastal erosion, while complying with all applicable code requirements including but not limited to building separation requirements, to the satisfaction of the Planning Director.

\*\*\* END OF CONDITIONS \*\*\*



# ResolutionNo41-2020\_Appeal\_277KentRoad\_FINAL-Approved

Final Audit Report

2020-07-08

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