

Table of Contents

Item 01_CUP18-002 (107 Via de la Valle).pdf	10
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City of Del Mar Planning Commission Agenda

Del Mar Town Hall
1050 Camino Del Mar
Del Mar, California
6:00 P.M.
Tuesday, March 12, 2019

Agenda

Nate McCay
Chair

Ted Bakker
Vice Chair

Philip Posner
Commissioner

Don Countryman
Commissioner

Carmel Myers
Commissioner

Kathleen A. Garcia
Planning & Community
Development Director

Amanda Lee
Principal Planner

It is the intention of your Planning Commission to be receptive to your concerns about your community. Your participation in local government will assure a responsible and efficient City of Del Mar.

Regular Meetings of the Planning Commission are generally held on the second Tuesday of the month, beginning at 6:00 p.m. For further information regarding the scheduling of meetings or meeting agendas, check the **City's web-site at www.delmar.ca.us**, or call the Planning Department's office at 858-755-9313. A full Planning Commission agenda packet with all backup information is available at City Hall, the Del Mar Library, and on the City's web site the Friday before each Planning Commission meeting.

Unless otherwise noted, for items on the agenda, **applicants and their team of representatives shall limit their [total] presentations to 10 minutes or less. Other speakers may address the Planning Commission for three minutes each.** Please submit a "Request to Speak" form to the staff member prior to the Chair announcing the agenda item. The forms are located near the door at the rear of the Meeting Room. The Agenda item number being addressed should be indicated on the speaker slip. The Chair will call you forward at the appropriate time.

The applicant or authorized representative must be present in order to ensure action by the Commissioners.

Meeting will end at 11:00 p.m. unless extended by a majority vote of the Commissioners. If all the items on the agenda are not heard, the remaining items will be heard the following Tuesday (if facilities are available) at 2010 Jimmy Durante Boulevard, Suite # 100.

When addressing the Planning Commission, please step forward to the lectern and state your name and address for the record. Whenever possible, lengthy testimony should be presented to the Commissioners in writing and only pertinent points presented orally.

Consent Calendar: The Consent Calendar is considered by the Planning Commission near the beginning of the agenda. Items placed on the Consent Calendar will be approved in accordance with the staff recommendations for the item unless removed from the Consent Calendar by Commissioners, staff, or a member of the public. If you wish to keep an item from being placed on the Consent Calendar, please submit a "Request to Speak" form to the staff member prior to the meeting or be prepared to indicate an objection to the placement on the Consent Calendar when the Chair or staff asks if there are any objections to approval of the Consent Calendar.

This notice will be the only written notice sent. Items, which are continued by the Planning Commission from one Planning Commission meeting to another “date certain” meeting date, will not be re-noticed through the mail.

Final action - the decision of the Planning Commission is final unless a written appeal is filed with the City Clerk, accompanied with a processing fee, within ten (10) working days from the date of notice of the action taken on the application. An approved permit shall not be valid until the 10-day appeal period has expired. The appeal is then forwarded to the City Council, which determines at the Initial Consideration whether to reject the appeal, thereby upholding the Planning Commission’s decision, or to set the matter for a subsequent date for a new (de novo) public hearing review. If a de novo public hearing is set by the City Council, an additional fee will be required.

Special Needs: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk’s office at 858-755-9313. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

As a courtesy to all meeting attendees, **please set cellular phones and pagers to silent mode** and engage in conversations outside the Commissioners Chambers.

Meeting Decorum:

All persons attending the Planning Commission meeting shall conduct themselves in a courteous and respectful manner. Comments shall be directed to the members of the Commission, rather than to others in attendance at the meeting. The Chairperson (or Vice Chair or Chair pro-tem in their absence), is designated as the parliamentarian for the meeting. As deemed appropriate, they may interrupt a speaker with instruction to redirect their remarks to relevant points on the agenda item before the Commission. They may also terminate a speaker’s oral presentation if comments continue to be non-relevant or become disrespectful.

Note: The entirety of the City of Del Mar is located within the Coastal Zone. Some of the development projects listed on this agenda, as noted, require the receipt of a Coastal Development Permit. Some of these projects may also lie in what is known as the “Coastal Development Appeals Area”. For the projects located in the appeals area, the City’s action on the requested Coastal Development Permit may be appealed to the California Coastal Commission. An appeal may be filed with the Coastal Commission within the ten calendar days following the Coastal Commission’s receipt of a notice from the City of its final action on the Coastal Development Permit application. However, before an appeal may be filed with the Coastal Commission, the City’s action on the CDP application must be final, meaning that all of the City’s [separate and internal] appeals processes must first be exhausted.

ROLL CALL

APPROVAL OF MINUTES

- 1) Approval of February 12, 2019 Planning Commission Meeting Minutes

UPDATE

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)\

HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

DISCUSSION AND BRIEFING (Application Items)

CONSENT CALENDAR:

The Planning Commission at the beginning of the meeting can place any item on the agenda upon the Consent Calendar. Consent Calendar items are not subject to public testimony. If you have a concern and wish to present information to the PC, you must be present at the beginning of the meeting to ensure the item will not be placed on consent, or write a letter to the PC prior to the meeting expressing why the application should be taken off the Consent Calendar.

NEW APPLICATION(S):

ITEM 1
CUP18-002
CDP18-004

APN: 298-421-12
Location: 107 Via de la Valle
Owner/Applicant: Amigas Investments LLC
Zone: R1-14 (Modified Low Density Residential)
Overlay Zones: Bluff Slope and Canyon; Lagoon
Environmental Status: Exempt
Staff Contact: Matt Bator, AICP, Principal Planner
Description: A request to modify previous Conditional Use (CUP16-001) and Coastal Development (CDP16-005) Permits in order to perform proposed landscape, hardscape, and grading improvements within the required 20 foot setback from the top of a substantially steep slope in the Bluff, Slope and Canyon Overlay Zone.

Note: This project is located within the appeal jurisdiction of the California Coastal Commission.

ADJOURNMENT

I, Jennifer Gavin, Associate Planner for the City of Del Mar, certify that a copy of the foregoing was posted at the Del Mar City Hall on Thursday, February 28, 2019.



Jennifer Gavin, Associate Planner
Planning and Community Development Department



**CITY OF DEL MAR
PLANNING COMMISSION REGULAR MEETING
(ACTION) MINUTES**

February 12, 2019

City Council Chambers

2010 Jimmy Durante Blvd., Suite 100, Del Mar, California



The minutes set forth the actions taken by the Planning Commission on the matters stated. Audio/video recordings of the Planning Commission proceedings are retained for a period of ten years, in accordance with the City's Records Retention Schedule. Audio/video recordings, as well as written materials presented to the Planning Commission, including Red Dots (materials provided to the Planning Commission after the agenda has published), are available on the City's website at www.delmar.ca.us/AgendaCenter or by contacting the Administrative Services Department at (858) 755-9313.

CALL TO ORDER

Chairperson McCay called the Regular Meeting to order at 6 pm.

ROLL CALL

Present: Chair Nate McCay, Vice Chair Ted Bakker, Commissioners Carmel Myers, Philip Posner, and Don Countryman

Absent: None

Staff Present: Principal Planner Amanda Lee, Associate Planner Jennifer Gavin

APPROVAL OF MINUTES

The meeting minutes for January 8, 2019 were unanimously approved.

STAFF UPDATE

Principal Planner Lee announced that there will be a public scoping meeting on February 21, 2019 in Town Hall at 4:30 p.m. relating to the proposed Zoning Code Amendment in the NC and PC zones to implement the Housing Element.

COMMISSION UPDATE

None.

HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

None.

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)

None.

DISCUSSION AND BRIEFING (Application Items)

Principal Planner Lee explained there were two items on the agenda; neither of which were eligible for consent.

Continued Applications:

ITEM 1

TSVS 18-001
(Continued from the
October 9, 2018
hearing)

Applicant: Arthur Alan Wolk

Applicant's Address: 456 Hidden Pines Lane

Tree Owners: David Botta and Mary Wilde

Site Address (Tree Location): 470 Hidden Pines Lane

Staff Contact: Jennifer Gavin, Associate Planner

Description: The applicant is seeking relief under DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight) for claims of scenic view blockage from a tree located on a neighboring property

(Note: Determinations regarding findings of unreasonable scenic view obstruction were made by the Planning Commission at its October 9, 2018 meeting. The purpose of the continued hearing at the February 12, 2019 meeting is to discuss and determine appropriate restorative actions, in accordance with DMMC Chapter 23.51, for the scenic views observed from 456 Hidden Pines Lane)

Speaker slips were submitted by Arthur Alan Wolk (applicant) and David Botta (tree owner). Red dot correspondence submitted for Item 1 included: 1) an email submitted by David Botta dated February 6, 2019 requesting the restorative action follow the City's Municipal Code; and 2) a copy of a Del Mar Times article titled "Del Mar residents call for changes to tree ordinance" and dated February 5, 2019 that was submitted by Arthur Alan Wolk at the hearing on February 12, 2019.

The subcommittee (Commissioners Posner and Countryman) reported out that since the initial October 9, 2018 Planning Commission hearing, they had worked with certified arborist, Andy McCracken, to conduct a site visit and develop a recommended restorative action plan. Their recommended plan included an initial crown reduction and thinning of the Torrey Pine Tree as part of a two-step process to reach the ultimate goal as marked with yellow lines on a photograph exhibit in the record. The applicant would be able to request annual trimmings with a process to return to the Planning Commission should the applicant believe it is necessary for consistency with the Commission's restorative action plan.

In response to Commissioner questions, it was clarified by staff that such trimmings would be at the applicant's cost and that the restorative action plan must follow the provisions in the Municipal Code.

A presentation was provided by Associate Planner Gavin. She pointed out that while the subcommittee's recommended restorative action plan was laid out based on an assumption that Andy McCracken would perform the work, the restorative action plan must be consistent with the City's Municipal Code. Therefore, modifications to the draft Resolution were necessary to maintain consistency with the procedures as outlined in DMMC Section 23.51.080.

The Commissioners asked questions of the applicant, Arthur Alan Wolk; tree owner, David Botta; certified arborist, Andy McCracken; and staff. Andy McCracken provided clarifying details for his recommended approach for restorative action. The applicant reiterated his desire that Andy McCracken be the one to perform the work.

Staff clarified that per the code, it is the tree owner's right to obtain two cost estimates to carry out the restorative action plan work; and that the two cost estimates must be submitted to the City and applicant within 30 days of adoption of the Resolution. It was further clarified that within 15 days of receiving the cost estimates, the applicant shall deposit money with the City in the amount equal to the lower cost

estimate; and that once the deposit payment is received, it is the tree owner who chooses who will complete the work within 30 days.

After deliberating, the Commission clarified the Restorative Action Plan as follows:

1. The scenic view from the primary living area of the Wolk residence at 456 Hidden Pines Lane has been obstructed by the Torrey Pine Tree on the north side of the property at 470 Hidden Pines Lane. The owner of 456 Hidden Pines Lane is entitled to crown reduction/thinning of the Torrey Pine Tree pursuant to the recommendation for restorative action provided by a certified arborist (Andrew McCracken) during the subcommittee's review. The lines on the attached photograph from Andrew McCracken, included as "Exhibit A", shall be the guide for the restorative action. Restorative action is recommended to occur through a multistep process. Trimming during the first step shall include reductions of main (branch) leads up to the top 12' of the tree and lesser (branch) leads of the top 2'-3' of the tree for a reduction of approximately 20-25% of the tree canopy as a first pass reduction.

2. After one year from the day of the first trimming, at the Applicant's expense, the Applicant is entitled to additional drop crotch type trimming as part of step 2 for the restorative action to further redirect the branch laterals down and drop the height of the tree by 3-6 feet (15-18 feet total including the initial 12 feet). The extent of step 2 trimming (to reach the ultimate goal as marked on "Exhibit A") is to be determined by the growth of the branches and limited as necessary to maintain the overall health of the tree structure.

3. At the Applicant's expense, the Applicant is entitled to annual trimmings consistent with past trimming practice as established herein. In the event the Applicant feels that trimming has not occurred consistent with this Restorative Action Plan (Plan), the applicant may return to the Planning Commission for a determination of consistency.

The Planning Commission members then made the following motion:

MOTION BY COMMISSIONER COUNTRYMAN SECOND BY COMMISSIONER MYERS TO ADOPT A RESOLUTION FINDING THAT THE APPLICANT MADE REASONABLE EFFORTS TO RESOLVE THE DISPUTE AS SET FORTH IN DMMC SECTION 23.51.050A; THAT THE TORREY PINE TREE LOCATED AT 470 HIDDEN PINES LANE UNREASONABLY OBSTRUCTS SCENIC VIEWS FROM THE PRIMARY LIVING AREA OF 456 HIDDEN PINES LANE; AND SETTING FORTH A REVISED RESTORATIVE ACTION PLAN FOR INCORPORATION INTO THE RESOLUTION (Vote 4-0-1)

Ayes:	Vice Chair Bakker, Commissioners Posner, Countryman, and Myers
Noes:	None
Absent:	None
Abstain:	Chair McCay

New Applications:

ITEM 2
GP 19-001

Location: Citywide

Applicant: City of Del Mar

Environmental Status: Staff determined this action is exempt from preparation of an environmental document pursuant to CEQA Guidelines Section 15061(b)(3) because this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The amendment simply discloses potential hazards and mitigation strategies and would not have a significant effect on the environment.

Staff Contact: Amanda Lee, Principal Planner

Description: The Planning Commission is asked to provide a recommendation to the City Council regarding the proposed General Plan Amendment GP 19-001 to amend the Del Mar Community Plan safety element. The purpose is to meet the California Senate Bill 379 requirement to address the City's disaster plan and hazard mitigation policies in the General Plan. The City's safety element policies are contained in the Environmental Management section of Del Mar's Community Plan (General Plan). The proposed amendment references Del Mar's existing disaster plan (Multi-Jurisdictional Hazard Mitigation Plan) and other hazard mitigation policies including Del Mar's Sea Level Rise Adaptation Plan and Local Coastal Program Land Use Plan.

Principal Planner Lee provided the Staff Presentation.

Nancy Stoke submitted a speaker slip and gave comments.

Staff responded to the questions raised and clarified that the reference to the Sea Level Rise Adaptation Plan within the draft language refers to the Adaptation Plan as adopted by the City Council and would include amendments to that document only if adopted by the Del Mar City Council by subsequent ordinance. Staff clarified that the Adaptation Plan would not include any suggested modifications by the California Coastal Commission that are not subsequently adopted by the City Council. Staff also clarified that the adaptation approaches outlined within the Sediment Management Plan are sufficiently covered by reference within the Adaptation Plan document. The Planning Commission discussed the item and made the following motion:

MOTION BY VICE CHAIR BAKKER SECOND MY COMMISSIONER COUNTRYMAN TO RECOMMEND ADOPTION OF GENERAL PLAN AMENDMENT 19-001 TO THE CITY COUNCIL (VOTE 5-0)

Ayes:	Chair McCay ,Vice Chair Bakker, Commissioners Posner, Countryman, and Myers
Noes:	None
Absent:	None
Abstain:	None

ADJOURNMENT

Chair McCay adjourned the meeting at 7:43 pm.



City of Del Mar



PLANNING COMMISSION
STAFF REPORT
March 12, 2019

APPLICATIONS: CUP18-002/CDP18-004

REQUEST: A request for Conditional Use and Coastal Development Permits to perform proposed landscape, hardscape, and minor grading improvements within the 20-foot setback of a substantially steep slope in the Bluff, Slope and Canyon Overlay Zone. Proposed improvements include the installation/construction of concrete patios, stairs, a fire-pit, a built-in barbeque, a retaining wall, and drainage storage and conveyance improvements.

*Note: This project is located in the appeal jurisdiction of the California Coastal Commission

OWNER/APPLICANT: Amigas Investments LLC

OWNER AGENT: Sam Blick

LOCATION: 107 Via de la Valle

ASSESSOR PARCEL NUMBER: 298-421-12

ZONING: R1-14 (Modified Low Density Residential)

OVERLAY ZONES: Bluff, Slope and Canyon Overlay (BSC-OZ); and Lagoon (L-OZ)

ENVIRONMENTAL REVIEW: The project was reviewed for conformance with CEQA and listed among the classes of projects determined to have less than significant adverse effect on the environment. Therefore, the project was found to be exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15303(a) – New Construction. It was further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

BACKGROUND:

The project site is located at 107 Via de la Valle in the R1-14 Zone, the Bluff, Slope and Canyon Overlay Zone (BSC-OZ), Floodplain Overlay Zone (FP-OZ) and the Lagoon Overlay Zone (L-OZ). Surrounding uses consist of single-family residential to the west and east, and the Del Mar Fairgrounds and Racetrack and the San Dieguito Lagoon and River downslope to the south. The subject parcel has a net lot area of 15,251 square feet, is rectangular in shape, and is oriented north to south from Via de la Valle.

The northernmost portion of the site is relatively flat, gently sloping from north to south until the topography steeply descends toward the southerly property line. Elevations in this area gently slope from +64 to 58 feet NGVD. At elevation +58, which represents the approximate top of slope elevation, the site descends in a steep slope toward the southerly property line where the elevation flattens to approximately +12 to 8 feet NGVD. The south portion of the site includes “steep slopes” pursuant to Del Mar Municipal Code (DMMC) §30.52.060(A)(1)(b). Steep slopes are protected under the City’s BSC-OZ and require a 20-foot setback from the top of slope.

Community Plan Designation and Application:

The standards of the R1-14 Zone are “intended to preserve an open and uncrowded character and protect the unique residential environment of Del Mar. The standards are intended to promote and protect those special amenities associated with a district of single-family homes. Factors of topography and environmental sensitivities, the character of existing, low-density residential areas, and the need to identify Del Mar as a distinct and separate community shall be taken into account in administering the standards contained herein.”

The BSC-OZ is intended to “preserve and protect the sandstone bluffs, canyons, and steep slopes that bring diversity to Del Mar’s natural environment.” In addition, the BSC-OZ calls for a maximum building height of 14 feet unless the Design Review Board (DRB) finds that scenic view sheds and open space appearance will be unaffected by a higher structure (up to the maximum standard of 26 feet in the R1-14 Zone) pursuant to DMMC §30.52.080.A. The intent of this section is to weigh the preservation of scenic view sheds and open space against a building’s mass and siting on a lot. In some instances, structures with a height greater than 14 feet and smaller footprint may be more effective in the preservation of scenic view sheds and open space than a structure with a larger footprint at 14 feet in height.

The L-OZ is intended to “protect the wetland resources of the San Dieguito and Los Peñasquitos lagoon areas and their sensitive upland habitats by requiring that all development activities taking place in the zone are designed and implemented in a manner that is consistent with wetland habitat protection and enhancement.”

Prior City Approvals

In October 2015, the Design Review Board approved development applications (DRB15-015, CDP15-004, LC15-007) to demolish a one-story, single-family residence and construct a new two-story single-family residence with a basement, grading and retaining walls, fencing, hardscape, landscaping, and associated site improvements. As part of its approval, the DRB made the required BSC-OZ findings in §30.52.080 that the proposed residence could exceed the 14-foot allowance on its south elevation exclusively (19 feet, 6 inches approved), with the northerly elevation to maintain the 14-foot allowance (12 feet, 8 inches approved). The DRB specified that the height increase on the south elevation could only be achieved by lowering the existing grade at the southern elevation of the home, within the required steep slope setback, and conditioned the

project to obtain a Conditional Use Permit (CUP16-001) and Coastal Development (CDP16-005) Permit, prior to the issuance of any building permits.

On March 8, 2016, the Planning Commission reviewed and approved CUP16-001 and CDP16-005 for the following:

1. Removal of all existing, unauthorized encroachments within the steep-slope setback, on steep slopes, and in the lower (south) portion of the These items include: 1) retaining wall and railroad-tie walls; 2) railroad-tie steps; (3) associated grading; 4) chain-link fencing; 5) pedestrian pathway; 6) existing hardscape and landscaping; and 7) wood decking and benches.
2. Approximately 60 cubic yards of cut grading to lower a portion of the steep slope setback area to achieve the two-story “tuck-under” design conditionally approved by the DRB. The grading contours provided to the retention of the existing “top-of-slope,” creating a basin in which drainage would be collected and pumped north to the street. This area was approved to be vegetation with native plantings
3. Restoration of the steep-slope setback and steep-slope area, as was recommended in a Slope Restoration Report presented to the Commission, including re-contouring disturbed areas to natural contours, native plant establishment, and installation of temporary irrigation for vegetation establishment over a one-year period. The proposed planting palate included a variety of low-growing, fire-resistant, native bluff species. As a condition of approval, an open space deed restriction was recorded over the substantially steep slope area of the property.

Following the above-discussed development approvals, the property was sold to the current owners and applicants of this modification request, Tim and Kimberly Schnell. The Schnells proceeded with the construction of the new home and previously approved site improvements, which were all completed in September 2018.

PROJECT DESCRIPTION:

The applicants are returning to the Planning Commission at this time with a request to construct formal patio improvements within the lot’s top-of-slope setback, which encompasses much of the area between the western extent of the home and the top-of-slope. As previously mentioned, with the exception of a 200 square-foot concrete pad adjacent to the home, this entire area was proposed and approved for planting of Coastal Sage Scrub plant species. Completion of the approved planting scheme would prohibit any outdoor living area use of the top-of-slope yard/setback area.

The applicants are now proposing to replace the proposed/approved planting within the steep slope setback with concrete patio. The area which was lowered to accommodate the walk-out master bedroom level would consist of concrete pavers with artificial turf filling the joints between the

pavers for a permeable patio area of approximately 1,040 square-feet. A proposed gas-fueled fire pit would be constructed at the westernmost portion of the patio. The area of the yard/setback which slopes up to the east at a higher elevation, would be accessed by new concrete stairs and would consist of impervious, poured concrete. An outdoor BBQ and counter would be constructed on this section of patio, which would be approximately 345 square feet in area. The lower patio area would be separated from the protected steep slope by a vegetated swale. The upper patio area would be supported by a retaining wall located at the top of the protected slope and out of the deed-restricted steep slope/open space area. Native shrubs would be planted at the upper part of the slope, adjacent to the proposed patio areas for visual screening of the proposed at-grade patio improvements. Temporary drip irrigation would be utilized to establish the new native plantings on the slope, then removed.

PROJECT'S CONSISTENCY WITH THE BSC-OZ AND L-OZ / CONDITIONAL USE PERMIT:

Conformance with the BSC-OZ:

Pursuant to §30.52.060, a CUP is required where development will involve encroachment(s) into a steep-slope setback and/or "substantial steep slopes" as defined in the BSC-OZ. In reviewing such CUP applications, the Planning Commission is to analyze the appropriateness of development on or in proximity to slope areas, as well as the development's potential impacts on drainage patterns and downstream resources.

The standards of review for a CUP within the BSC-OZ are found within §30.52.060(A) which states:

Construction or grading of any kind within twenty feet of the top and ten feet of the bottom of substantial slopes exceeding twenty five percent, or the construction of a structure which overhangs such slope or setback, shall be prohibited. Encroachments within the areas above shall be allowed only when the Planning Commission finds that there is no feasible alternative siting which eliminates or substantially reduces the need for such construction or grading, and it is found that the amount of encroachment into steep slope areas associated with the proposed structure has been minimized to the greatest extent feasible commensurate with preserving the physical characteristics of the site.

The BSC-OZ is intended to protect the valuable resources of bluffs and related canyons and steep slopes, as well as protect downstream resources from the adverse impacts of erosion and sedimentation.

The existing development consists of a newly constructed single-family structure sited entirely outside of the steep-slope setback and steep slopes. However, as previously discussed, in order to accommodate the design of the structure's southern elevation, cut grading, re-contouring of previously disturbed areas, retaining wall construction, and drainage collection improvements were all approved by the Planning Commission and DRB within the site's steep slope setback.

Approximately 8,300 square-feet of the project site is encumbered by a protective open space deed restriction. This encompasses the southern 150-172 linear feet of the lot. It is staff's position that the applicants have demonstrated through the design and enhanced drainage considerations of the proposal, the additional disturbance of the steep slope setback area would be minimized to the greatest extent practicable to allow outdoor use area on a constrained site. Feasible alternatives that would allow the applicants use of their property in a manner similar to nearby lots with the same topographical and natural resource characteristics do not appear to exist.

Drainage Considerations:

In addition to slope protection issues, the BSC-OZ calls for the Planning Commission to review project plans relative to drainage and runoff considerations. Section 30.52.060(1)(b) states:

Runoff from constructed impervious surfaces shall be discharged directly into publicly owned discharge and drainage systems. In the event that no public discharge or drainage systems are in the immediate vicinity, the Planning Commission may approve alternate systems upon the recommendation of the City Engineer, if it is found that the proposed alternate system will produce no significant erosion. "Significant erosion" shall mean the likelihood of removal of soil or the cutting, scarring, or rilling of slopes, canyons, or bluff faces, or the silting of lower slopes brought about by runoff from the impervious surfaces during irrigation from rainfall of an intensity and duration less than or equal to that of the 100-year period storm design.

The applicants have revised the previously approved drainage plan for the site, which called the collection of drainage in the graded steep slope setback area in an underground basin, to be pumped to Via de la Valle as needed. The revision to the drainage plan continues to collect and pump collected drainage runoff, however the size of the underground storage would be increased to accommodate the increased hardscape and to ensure the protection of the slope from any erosive drainage from the patios. The proposed project modifications and drainage plan revisions have been reviewed by the City Engineer, who has indicated that the revised drainage plans meet the City's required specifications and would be acceptable.

Conformance with the L-OZ:

The L-OZ is intended to "protect the wetland resources of the San Dieguito and Los Peñasquitos lagoon areas and their sensitive upland habitats by requiring that all development activities taking place in the zone are designed and implemented in a manner that is consistent with wetland habitat protection and enhancement." While the subject parcel is located within the L-OZ, the location of the proposed residence is sited at the top of the steep slopes north of elevation +58. Any wetlands on the site are located at the base of the slope near elevation +12 to 8 feet and are approximately 130 feet away from the proposed residence. No development activity is proposed at the base of the slope with exception to the removal of an unpermitted chain-link fence (Condition SC-18).

For the redevelopment of the lot, applicant submitted a Biological Survey and Constraints Report prepared by ICF International, dated August 2014, that provided a biological inventory of the site, onsite wetland delineation, and an analysis of a 100-foot wetland buffer. The report concluded that the proposed residence and associated site improvements, including those within the steep slope setback as proposed here, would avoid all wetland and jurisdictional features within a 100-foot buffer. Further, the report concluded that no special-status plant species or wildlife were identified. The report notes that an area of marginal southern coastal marsh (disturbed) was mapped on the lower terrace of the property and is likely to be considered wetland and riparian habitat by the California Department of Fish and Game, but would not be a USACE/RWQCB wetland or water of the U.S.

Conditional Use Permit Findings:

Pursuant to DMMC Chapter 30.60, each determination granting a CUP shall be supported by the findings shown below in **bold** face. Below each of the required findings, staff has provided draft text that may be used by the Planning Commission in its consideration of the CUP application. The draft findings are written in support of the CUP request based on staff's review of the proposal, submitted plans, recommended conditions, and the evaluation criteria in §30.52.060.

1. That the use for which the Conditional Use Permit is applied for is permitted within the zone in which the property is located.

Draft finding: The construction of site improvements associated with the construction of a new single-family residence, including grading, retaining walls, hardscaping and landscaping are allowed with in the R1-14 Zone and BSC-OZ.

2. That the granting of such Conditional Use Permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements on such vicinity and zone in which the property is located.

Draft finding: The established character of the surrounding neighborhood is residential with single-family residences located adjacent to the subject parcel on the south side of Via de la Valle. The requested encroachment is limited to at-grade patios, retaining wall, minor grading, and drainage collection and conveyance improvements in the steep-slope setback area of the lot. The proposed improvements would be similar to site amenities provided for the homes to the east and west of the applicant's lot.

3. That the proposed use is properly located in relation to the community as a whole and to other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on the streets.

Draft finding: The proposed residential use is properly located within the community. The improvements would be installed in an established residential neighborhood that is adequately served by existing transportation and service facilities.

- 4. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping, and such other features as are required by this chapter or as are needed, in the opinion of the Planning Commission, or the City Council on appeal, are properly provided to be compatible and harmonious with nearby uses.**

Draft finding: The requirements of the R1-14 Zone call for a minimum lot size of 14,000 square feet. The subject lot size is 15,251 square feet and complies with all zoning standards applicable to the property, including the 10% maximum encroachment into substantial steep slope areas identified in DMMC Chapter 30.52. As previously-noted, the project does not propose any encroachment into substantial steep slopes, only the top-of slope setback. All proposed improvements would be located outside of the required 100-foot setback from wetland resources.

- 5. That the granting of such Conditional Use Permit will not be contrary to the adopted Community Plan, including its goals, objectives, or policies, or to the objectives of any ordinance, regulation, or plan in effect to implement said Community Plan.**

Draft finding: The BSC-OZ is adopted as part of the DMMC and certified Del Mar Local Coastal Program (LCP) and is designed to carry out the applicable goals, objectives, and policies of the Community Plan, including the applicable element of the Community Plan's Bluff, Slope and Canyon Precise Plan. The proposed request is to authorize an encroachment into the steep-slope setback within the BSC-OZ for proposed at-grade patios, retaining wall, minor grading, and drainage collection and conveyance improvements that are associated with a single-family residence.

The applicants have demonstrated that the installation of the proposed improvements would not impact the protected slope or increase runoff to downstream resources. Therefore, staff recommends that the granting of a CUP to authorize the proposed encroachment would not be contrary to the objectives of the BSC-OZ which were adopted to implement the pertinent goals, objectives and policies of the Del Mar Community Plan.

PROJECT'S CONSISTENCY WITH THE LOCAL COASTAL PROGRAM (LCP) / COASTAL DEVELOPMENT PERMIT:

The project consists of site improvements associated with the existing single-family residence approved by DRB15-015. These improvements include proposed at-grade patios, retaining walls, minor grading, and drainage collection and conveyance facilities. Accordingly, the receipt of a Coastal Development Permit (CDP) is required. The project site is located in the Appeal Jurisdiction of the California Coastal Commission (CCC). The applicant has submitted the necessary materials to evaluate the project's conformance with the LCP and the CDP application

has been grouped together with the required CUP for review by the Planning Commission. An analysis of the proposed project was previously discussed under the BSC-OZ and L-OZ sections of this report. Since both overlay zones are a part of the Implementing Ordinances (IO) to the LCP, the standards of review for the CDP application are the regulatory standards of the LCP. An analysis of the proposed project's compliance with the provisions of the BSC-OZ and L-OZ were addressed in an earlier section of this report.

Staff has reviewed the application for its consistency with the applicable provisions of the LCP, specifically those that relate to the BSC-OZ resource protection standards, avoidance of hazards regulations, and public access standards. As previously discussed, the project was not determined to have significant adverse effects on the environment pursuant to CEQA. In reviewing a CDP application for development, the Planning Commission is to analyze proposed development relative to the following seven findings in LCP IO §30.75.140:

- 1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.**
- 2. That the proposal meets the criteria of the applicable chapters of this Title.**
- 3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program.**
- 4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.**
- 5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**
- 6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**
- 7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use plan.**

The use for which the CDP modification is requested, installation of patio improvements associated with a single-family residence, is permitted within the R1-14 Zone in which the property is located. The project would include an encroachment into the BSC-OZ required 20-

foot steep-slope setback for a retaining wall, grading, and drainage collection and conveyance, with no encroachment onto substantial steep slopes located on the southern-portion of the lot. As previously discussed, the proposed project avoids all wetland and jurisdictional features within a 100-foot buffer and the L-OZ. No existing public access exists on the site and the all unpermitted structures previously located in the steep-slope setback and on steep slopes were removed per conditions associated with the previous approvals to construct the (new) home currently located on the lot. An open space deed restriction to protect the steep slope area and lower (southern) portion of the lot was recorded in accordance with previous development approvals.

In addition to the City's Zoning Code, the BSC-OZ is a component of the LCP IO (Chapter 30.52). As such, the Planning Commission's consideration of the project's conformance with the BSC-OZ is also necessary make the findings of fact for the requested CDP. This specifically includes CDP Findings 2, 3, and 6.

Pursuant to the Post-LCP Permit and Appeal Jurisdiction map, the City's action on the CDP would be appealable to the CCC. Information for appealing a City action to the CCC is provided in §30.75.110 and by contacting CCC staff or City staff. Note that an appeal of a City action must be an appeal of the City's final action on the CDP application, meaning that the City's internal appeal process must be exhausted before the action may be deemed final and, thereby, eligible for an appeal to the CCC.

RECOMMENDATION: Staff recommends Planning Commission adopt the attached draft resolution (Exhibit A) approving CUP18-002/CDP18-004.

Respectfully submitted,



Matt Bator, AICP
Principal Planner

Exhibit A – Draft Resolution

Exhibit A

RESOLUTION NO. PC-2019-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, CALIFORNIA APPROVING A *CONDITIONAL USE PERMIT (CUP18-002)* AND A COASTAL DEVELOPMENT PERMIT (*CUP18-004*) TO ALLOW AN ENCROACHMENT INTO THE REQUIRED 20-FOOT STEEP-SLOPE SETBACK IN THE BLUFF, SLOPE AND CANYON OVERLAY ZONE (BSC-OZ) FOR CONCRETE PATIOS, STAIRS, A FIRE-PIT, A BUILT-IN BARBEQUE, A RETAINING WALL, AND DRAINAGE STORAGE AND CONVEYANCE IMPROVEMENTS ASSOCIATED WITH A SINGLE-FAMILY RESIDENCE IN THE R1-14, BSC-OZ AND LAGOON OVERLAY ZONE (L-OZ) LOCATED AT 107 VIA DE LA VALLE, DEL MAR, CALIFORNIA

APN: 298-421-12

WHEREAS, on April 3, 2018, Sam Blick (herein referred to as “Applicant”), on behalf of property owner Amigas Investments, LLC, applied for a Conditional Use Permit (*CUP18-002*) to allow an encroachment into the required 20-foot steep-slope setback in the Bluff, Slope and Canyon Overlay Zone (BSC-OZ) for concrete patios, stairs, a fire-pit, a built-in barbeque, a retaining wall, and drainage storage and conveyance improvements associated with a single-family residence in the R1-14 Zone, BSC-OZ and Lagoon Overlay Zone (L-OZ) on a property located at 107 Via de la Valle, Del Mar, California; and

WHEREAS, the Del Mar Community (General) Plan and Local Coastal Program (LCP) state that the: 1) BSC-OZ is intended to “preserve and protect the sandstone bluffs, canyons, and steep slopes that bring diversity to Del Mar’s natural environment”; and 2) L-OZ is intended to “protect the wetland resources of the San Dieguito and Los Peñasquitos lagoon areas and their sensitive upland habitats by requiring that all development activities taking place in the zone are designed and implemented in a manner that is consistent with wetland habitat protection and enhancement;” and

WHEREAS, the project site is located upland of the San Dieguito Lagoon and River with surrounding uses consisting of developed single-family residential to the east and west, multi-family residential to the north opposite Via de la Valle, and the Del Mar Fairgrounds and Racetrack to the south; and

WHEREAS, the project proposes development that would encroach into the steep-slope setback as required by the BSC-OZ; and

WHEREAS, the project was reviewed for conformance with the California Environmental Quality Act (CEQA) and listed among the classes of projects determined to have less than significant adverse effect on the environment. The Planning Commission determined that the project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15303(a) – New Construction. The Planning Commission further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2); and

WHEREAS, on March 12, 2019 the Planning Commission of the City of Del Mar held a public hearing on the applications of **CUP18-002** and **CDP18-004** , and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

- a. Plans submitted by the applicant.
- b. Written information submitted with the application
- c. Oral testimony from Staff, the applicant, and the public.
- d. Staff report, dated March 12, 2019, which is incorporated by this reference, as though fully set forth herein.
- e. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Del Mar, that Conditional Use Permit CUP18-002 is hereby approved based on the following findings:

1. That the use for which the Conditional Use Permit is applied for is permitted within the zone in which the property is located.

The construction of site improvements associated with the construction of a new single-family residence, including grading, retaining walls, hardscaping and landscaping are allowed with in the R1-14 Zone and BSC-OZ.

2. That the granting of such Conditional Use Permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements on such vicinity and zone in which the property is located.

The established character of the surrounding neighborhood is residential with single-family residences located adjacent to the subject parcel on the south side of Via de la Valle. The requested encroachment is limited to at-grade patios, retaining wall, minor grading, and drainage collection and conveyance improvements in the steep-slope setback area of the lot. The proposed improvements would be similar to site amenities provided for the homes to the east and west of the applicant's lot.

3. That the proposed use is properly located in relation to the community as a whole and to other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on the streets.

The proposed residential use is properly located within the community. The improvements would be installed in an established residential neighborhood that is adequately served by existing transportation and service facilities.

4. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping, and such other features as are

required by this chapter or as are needed, in the opinion of the Planning Commission, or the City Council on appeal, are properly provided to be compatible and harmonious with nearby uses.

The requirements of the R1-14 Zone call for a minimum lot size of 14,000 square feet. The subject lot size is 15,251 square feet and complies with all zoning standards applicable to the property, including the 10% maximum encroachment into substantial steep slope areas identified in DMMC Chapter 30.52. As previously-noted, the project does not propose any encroachment into substantial steep slopes, only the top-of slope setback. All proposed improvements would be located outside of the required 100-foot setback from wetland resources.

5. That the granting of such Conditional Use Permit will not be contrary to the adopted Community Plan, including its goals, objectives, or policies, or to the objectives of any ordinance, regulation, or plan in effect to implement said Community Plan.

The BSC-OZ is adopted as part of the DMMC and certified Del Mar Local Coastal Program (LCP) and is designed to carry out the applicable goals, objectives, and policies of the Community Plan, including the applicable element of the Community Plan's Bluff, Slope and Canyon Precise Plan. The proposed request is to authorize an encroachment into the steep-slope setback within the BSC-OZ for proposed at-grade patios, retaining wall, minor grading, and drainage collection and conveyance improvements that are associated with a single-family residence.

The applicants have demonstrated that the installation of the proposed improvements would not impact the protected slope or increase runoff to downstream resources. Therefore, staff recommends that the granting of a CUP to authorize the proposed encroachment would not be contrary to the objectives of the BSC-OZ which were adopted to implement the pertinent goals, objectives and policies of the Del Mar Community Plan.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that Coastal Development Permit CDP18-004 is hereby approved based on the following findings:

1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.

The use for which the CDP is requested, site improvements and minor grading associated with a single-family residence are permitted within the R1-14 Zone (Modified Low Density Residential) Zone in which the property is located.

2. That the proposal meets the criteria of the applicable chapters of this Title.

The proposed project, as conditioned, meets the criteria of the applicable chapters of the DMMC, specifically Chapter 30.11 (Modified Low Density Residential), Chapter 30.52 (Bluff, Slope and Canyon Overlay Zone), and Chapter 30.53 (Lagoon Overlay Zone). The project would include encroachment into the BSC-OZ required 20-foot steep-slope setback for the

installation/construction of concrete patios, stairs, a fire-pit, a built-in barbeque, a retaining wall, and drainage storage and conveyance improvements, with no encroachment onto substantial steep slopes located on the southern-portion of the lot or in the L-OZ. No development is proposed on the substantially steep slope.

3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program.

As previously described in Finding 5 of CUP16-001, the granting of the CDP will be in conformity with the LCP with respect to resource protection standards, avoidance of hazards regulations, and public access standards. Drainage measures associated with the proposed residence have been reviewed by the City Engineer for consistency with the BSC-OZ drainage requirements and have been conceptually approved and would ensure that runoff from the impervious surfaces of the development will be collected and appropriately collected and channeled away from sensitive slopes and into City Engineer-approved catch basins/facilities.

4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The project is consistent with and implements the applicable requirements for the provision of public access contained in the DMMC and in the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project is not located between the first coastal roadway and the sea. Further, the subject parcel is not located along a shoreline and public access does not exist on the site. Opportunities for public access to the shoreline are available along the Via de la Valle/Camino del Mar/Highway 101 public rights-of-way north of the subject parcel.

5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.

The subject parcel is not located along a shoreline. Therefore, this finding does not apply.

6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.

Approximately one-quarter of the parcel consists of south-facing steep slopes that are visible from several areas within public view to the south including Camino del Mar, Jimmy Durante Boulevard (south), San Dieguito River and Lagoon, the River Path Del Mar trail, and North Beach and bluff area. The proposed residence maintains the required steep-slope setback and does not propose any encroachments, as defined in the BSC-OZ, on steep slopes.

As designed, the project is consistent with and implements the provisions of public view protection policies of the LCP, including those of the LCP Land Use Plan. Due to its location and orientation on the site, the project would not adversely affect any public views or scenic vistas.

7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use plan

While the subject parcel is located within the L-OZ, the location of the proposed residence is sited at the top of the steep slopes north of elevation +58. Any wetlands on the site are located at the base of the slope near elevation +12 to 8 feet and are approximately 130 feet away from the proposed residence. No development activity is proposed at the base of the slope. The proposed site improvements would avoid all wetland and jurisdictional features within a 100-foot buffer.

The project was evaluated by the City Engineer and conditioned to require the submittal of a detailed Drainage Plan prior to the issuance of Building Permits. The detailed plan will include several components to demonstrate adequate conveyance of surface and storm water, consistent with the provisions of City Codes including the BSC-OZ and L-OZ, along with and the installation of various erosion and drainage control measures, including Best Management Practices (BMPs) during construction.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that CUP18-002 and CDP18-004 as approved herein, shall be subject to the following conditions:

[Note: The conditions listed below may have intentional gaps in numbering or lettering.]

General Conditions:

G-1 *[Business License]*

Prior to commencement of any work on site, all contractors and subcontractors shall obtain a valid City of Del Mar Business License. The general contractor shall be responsible for ensuring that all subcontractors obtain the required Business License and shall retain copies of said permits on site for verification by City staff.

G-3 *[Development Authorization Limited to Plan Set]*

This Conditional Use Permit (CUP) and Coastal Development Permit (CDP) is granted based on submitted plans dated **March 7, 2019** and so identified by the staff of the Del Mar Planning Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-5 *[Requirement for Building Permits]*

Prior to commencement of work, the applicant or agent shall obtain all required Building Permits.

G-6 *[Trash Removal & Recycling]*

All work associated with the project shall be done in conformance with the City of Del Mar's Mandatory Recycling Ordinance (No. 590). Additionally, any service relating to the collection of solid waste and/or designated recyclable materials shall be provided by the City's licensed trash removal franchise Waste Management, unless the materials are directly removed by the contractor. Waste Management can be reached at (858) 452-9810.

G-7 *[Code Compliance]*

Approval of this application shall not waive the requirement for compliance with the provisions of the Del Mar Municipal Code (DMMC) or other applicable City regulations in effect at the time of Building Permit issuance, unless specifically waived in this permit authorization.

G-11 *[Plan for Construction-Phase Impacts]*

Prior to issuance of Building Permits or commencement of project implementation, (whichever comes first) the applicant shall provide a plan for construction-phase parking and equipment/materials storage for the project. The intent of this condition is to ensure that the construction phase impacts of the project, such as contractor and subcontractor parking and storage of materials and equipment, have been planned and will be implemented so as to minimize the impact on surrounding streets and uses. The plan shall also include the identification of a haul route for delivery to or removal of materials from the project site. The plan required herein shall be subject to the review and written approval of the Planning and Community Development Director. Haul routes and work and/or storage of material or equipment within a City right-of-way may require the separate receipt of an Encroachment Permit. The requirement for submittal of a Plan may be waived the City upon a determination that sufficient information has been otherwise provided about proposed construction-phase practices.

G-13 *[Permit Expiration]*

The permits shall expire three years from the date of approval on **March 12, 2019 (expiring on March 12, 2022)** unless a Building Permit has been issued (if required by the DMMC) and substantial construction has been accomplished in reliance upon the permit. Pursuant to the DMMC, substantial construction is defined as: completion of a minimum of 10% of the total amount of construction authorized by the permit, based on the monetary value of construction costs including grading, site preparation and construction but specifically excluding all costs associated with the acquisition of interest in the project site and all costs associated with the preparation and processing of permits or plans.

G-17 *[Compliance with City Noise Regulations]*

The applicant and all parties involved with implementation of the project shall comply with the regulations of the DMMC with regard to construction noise. The regulations stipulate that all construction activities are limited to the following periods: between 7:00 a.m. and 7:00 p.m. / Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturdays. Construction activities are prohibited during other hours and on Sundays and

City Holidays. The City's Noise Ordinance, DMMC Chapter 9.20, includes the dates of City Holidays, and can be viewed on the City's web page (www.delmar.ca.us).

Special Conditions:

SC-1 *[Indemnification]*

The permittee/owner shall defend (with attorneys approved by the City), indemnify and hold harmless the City of Del Mar, its agents, officers, and employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City, its advisory agencies, appeal boards, or legislative body concerning this approval or permit. The City will promptly notify the permittee/owner of any such claim, action, or proceeding against the City and will cooperate fully in the defense.

SC-2 *[CUP Revocation and/or Modification of Conditions]*

In the event that any of the conditions of this permit are not satisfied, the Planning Director shall set a public hearing before the Planning Commission to determine whether the CUP should be revoked. Additionally, upon showing of a compelling public necessity demonstrated at a noticed public hearing, the City of Del Mar, acting through the appropriate entity, may add, amend, or delete conditions of this permit.

SC-3 *[Requirement for DRB]*

In accordance with the DMMC, implementation of the proposed CUP and CDP shall be subject to separate receipt of a valid DRB permit.

Engineering Conditions:

E-1 *[Revised Grading and Drainage Plan]*

The project shall conform to the revised Grading and Drainage Plan dated February 27, 2019 and Approved by the City Engineer on March 7, 2019, contingent on the approval of CUP18-002 and CDP18-004.

Local Coastal Program Conditions:

LCP-1 *[Prohibition on Grading during the Rainy Season]*

In accordance with BSC-OZ and L-OZ, no grading shall occur between November 15th of any year and March 15th of the following year, unless specifically authorized through the written approval of the Planning and Community Development Department Director.

LCP-2 *[Coastal Development Permit Appealable]*

This project is located within the Coastal Appeal Zone. The City's action on the requested Coastal Development Permit application may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.75 of the City of Del Mar Municipal Code.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar, this **12th day of March 2019** by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nathan McCay, Chair
Planning Commission

ATTEST:

Kathleen A. Garcia, Director
Planning and Community Development Department

THIS RESOLUTION AND AGREEMENT IS VALID WHEN SIGNED BY PARTIES TO THE APPLICATION. DESIGN REVIEW BOARD APPROVAL IS BASED ON COMPLIANCE WITH THE AFOREMENTIONED CONDITIONS. NON-COMPLIANCE WITH ANY STATED CONDITION RENDERS THE PERMITS **CUP18-002 and CDP18-004** NULL AND VOID AND/OR SUBJECT TO CODE ENFORCEMENT.

I have read and understand the above conditions of approval for **CUP18-002 and CDP18-004** and hereby agree to abide by all conditions of approval.

Date

Amigas Investments, LLC