

**CALIFORNIA COASTAL COMMISSION**

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# Th12a

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**STAFF REPORT: PERMIT AMENDMENT**

**Application No.:** 5-14-0540-A1  
**Applicant:** Dan & Pauline Twomey  
**Agent:** Edward Selich  
**Project Location:** 400 Ocean Blvd., Seal Beach, Orange County

**Description of Proposed Amendment:** Allow private vehicle/driveway access from Ocean Ave.; establish one new, 24-ft. long, on-street public parking space on the oceanward side of Ocean Avenue at southwest corner of intersection of Ocean Ave. and Main Street; and construct 3 level, 4,342 square foot, single family home with attached 577 square foot, 4 car, two level garage (using 2 car lifts)

**Description of Previously Approved Project:** Demolition of an existing single-family residence and subdivision of the lot into two separate parcels.

**SUMMARY OF STAFF RECOMMENDATION**

The proposed development would allow construction of a new single-family residence on a beachfront lot. The original Coastal Development Permit No. 5-14-0540 allowed demolition of the previous single-family residence and subdivision of the lot into two lots. A special condition of the original CDP required that a future CDP on the subject lot retain vehicular access from 4<sup>th</sup> Street in order to avoid loss of public on-street parking on Ocean Ave. Loss of on-street parking in the area immediately adjacent to the beach adversely impacts public access.

However, 4<sup>th</sup> Street, which borders the northwest property line, is a public pedestrian beach accessway. In this area, the street ends seaward of Ocean Avenue are public pedestrian beach accessways. A few homes in this area, such as the one demolished under CDP No. 5-14-0540, are accessed from these street ends; no other vehicular access is allowed. There is no vehicular (driveway) access from most of these

streetends. As properties adjacent to these streetends have redeveloped over the years, the City has discouraged vehicular access in order to promote safer pedestrian use of the public accessways. Consequently, the City has declined to allow vehicular access to a proposed new home on the subject site from 4<sup>th</sup> Street. Thus, the applicant is in the position of not being able to comply with both the City's vehicular access prohibition and with the Coastal Commission's vehicular access requirement.

To address this impasse, the applicant has proposed to create a new, on-street public parking space, approximately five blocks from the site, but still on Ocean Ave. within immediate walking distance to the beach. The new parking space will be created, with the City's concurrence, by eliminating excessive red-curbings. In addition, staff is recommending the proposed driveway width be slightly reduced to retain the maximum length of the on-street parking space that would remain (taken together with the curb area at the neighboring site, also subject to CDP No. 5-14-0540). Maximizing the length of the retained on-street public parking space will allow accommodation of a wider variety of vehicles, and more importantly, will be recognized more obviously as a parking space by the general public. To assure that public access is maximized and that these measures are implemented, the staff recommends **Special Condition Nos. 1, 2, and 3** which: 1) allows private vehicle/driveway access from Ocean Avenue, 2) limits the width of the new driveway to no more than 16 feet, and 3) requires the additional public on-street parking space to be implemented as proposed by the applicant.

The proposed residence also raises issues with regard to conformance with the neighborhood character and scale. As proposed, the residential roof would extend 10 feet beyond the residential setback line, to cover a proposed deck area below. No other residential roofs in the vicinity extend beyond the residential setback line. Extending the roof 10 feet beyond the setback line would increase the bulk and scale of the structure, inconsistent with surrounding development. Surrounding homes have either open pergola type structures above upper level decks, or no structural cover at all. As proposed, the roof line would create a precedent that would adversely affect the beach front line of development in this area. As noted above, the subject site is immediately adjacent to a public pedestrian beach accessway. Staff recommends **Special Condition No. 4** which requires a revised roof plan demonstrating that the residential roof will not exceed the residential setback line.

Although not described or required in the Geotechnical or Coastal Hazards reports prepared for the proposed development, and not included on the proposed foundation plans, and not included in the written project description, the proposed Grading and Drainage Plan (Plan Sheet C-1.1) depicts a retaining wall along the length of the beachfront property line. There appears to be no technical requirement for this retaining wall, based upon the absence of mention of it in either of the technical studies prepared for the proposed development. Structures such as retaining walls could act as a shoreline protective device in the event the site were to become threatened by coastal hazards. If this retaining wall were to act as a shoreline protection device, significant adverse impacts to coastal resources could result. No justification for the need for a

retaining wall has been provided. In fact the technical information provided for the site states that no future shoreline protection is expected to be necessary. The beachfront retaining wall is shown approximately 100 feet seaward of the residential footprint (on this 198-foot long lot). In order to avoid the adverse impacts due to shoreline protection, this retaining wall must be eliminated from the proposed project's Grading and Drainage Plan. Staff recommends **Special Condition No. 7**, which requires submittal of a revised Grading and Drainage Plan (Plan Sheet C-1.1) which indicates that the retaining wall along the beachfront property line has been eliminated.

The remaining Coastal Act issues raised by the subject development are: 1) shoreline protection; 2) beachfront development that could be subject to natural hazards such as wave attack and flooding; and 3) water quality. The proposed project is located in an area where coastal hazards exist and could adversely impact the development. Therefore, the Commission imposes **Special Condition 8**, requiring the applicant to assume the potential risk of injury and damage arising from coastal hazards that may threaten the development. No shoreline protective device is proposed to protect the development pursuant to this permit. Because shoreline protective devices typically harm coastal resources, including sand supply, public access, coastal views, beach dynamics, and natural landforms, the Commission imposes **Special Condition 6**, which requires the applicant to acknowledge that, as new development, the project is not entitled to shoreline protection, and to waive any right to a shoreline protective device that may exist under applicable law. During construction and post construction, the proposed project has the potential to impact water quality and marine resources. Therefore, as a result, two special conditions address and minimize impacts to water quality and marine resources as follows: **Special Condition 10** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris; and **Special Condition 9** imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Any potential changes to the proposed project may result in adverse impacts to coastal resources. To ensure that development on the site which could potentially result in adverse impacts to coastal processes does not occur, the Commission imposes **Special Condition 5**, which informs the applicant that future development at the site requires a new amendment to Coastal Development Permit No. 5-14-0540 or a new coastal development permit.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 11** requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property.

**PROCEDURAL NOTE:**

The Commission's regulations provide for referral of permit amendment requests to the Commission if: 1) The Executive Director determines that the proposed amendment is a material change, 2) Objection is made to the Executive Director's determination of immateriality, or 3) The applicant appeals the Executive Director's determination that a proposed amendment would lessen or avoid the intended effect of a permit. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code Regs. § 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

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### **APPENDICES**

Appendix A – Substantive File Documents

### **EXHIBITS**

Exhibit 1 – Vicinity Map

Exhibit 2 – Project Plans

Exhibit 3 – 4<sup>th</sup> Street Public Pedestrian Accessway

Exhibit 4 – Driveway Access from Ocean Avenue

Exhibit 5 – Location of Subject Site and Proposed New Public On-Street Parking  
Space

Exhibit 6 – New Public Parking Space on Ocean Avenue at Main Street

Exhibit 7 –Photo & Example of Decks/Terraces in Project Vicinity

Exhibit 8 – CoSMoS Maps

## I. MOTION AND RESOLUTION

**MOTION:** *I move that the Commission approve the proposed Coastal Development Permit Amendment No. 5-14-0540-A1 pursuant to the staff recommendation.*

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

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

## II. STANDARD CONDITIONS

This permit amendment is granted subject to the following standard conditions:

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

assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

### **III. SPECIAL CONDITIONS**

This permit amendment is granted subject to the following special conditions:

#### **1. Private Vehicle/Driveway Access.**

Private vehicle/driveway access to the property at 400 Ocean Avenue may be allowed from Ocean Avenue only as described below in Special Condition 2 of Coastal Development Permit Amendment 5-14-0540-A1.

#### **2. Preservation of Public On-Street Parking.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, revised plans clearly demonstrating that:

- 1) The width of the entire driveway curb cut on Ocean Avenue shall be limited to no more than sixteen (16) feet (including the entire driveway aprons).
- 2) A minimum unobstructed distance of not less than eight feet, three inches (8' 3") from the southeast edge of this driveway curb cut to the extension of the southeastern property line shall remain accessible for public, on-street parking for the life of the proposed development. This minimum 8'3" on-street area shall be combined with the curb area adjacent to the neighboring property at 402 Ocean Avenue (subject of both CDP 5-14-0540 and CDP 5-17-0669), such that a minimum on-street parking space of 19' 6" shall remain available for use by the public for vehicular parking.
- 3) No development on the subject property, (including but not limited to signage, red curbing, increase in driveway/driveway apron width) shall be allowed to obstruct and/or interfere with public on-street parking within the above described area and as depicted on [Exhibit 4](#) attached to this staff report.

- B.** The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an additional Commission amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is legally required.

**3. New Public On-Street Parking Space at Ocean Avenue & Main Street.**

PRIOR TO CONSTRUCTION OF THE HOME subject to this coastal development permit, the applicant shall submit evidence that the additional public, 24-foot long, on-street parking space located on the seaward side of Ocean Avenue, immediately southwest of the intersection of Main Street and Ocean Avenue in Seal Beach, has been created and is publicly available. Required evidence shall include: written acknowledgement from the City of Seal Beach that the public, 24-foot long parking space has been created, and photographic evidence of the newly created public parking space.

**4. Revised Roof Plan**

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, revised plans demonstrating that:

No solid roof above the upper level terrace extends into the 10-foot-wide area labeled as “easement” on the project plans shown (located immediately adjacent to the seaward edge of the residential footprint, [Exhibits 2.1, 2.6 & 2.7](#)).

- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an additional Commission amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is legally required.

**5. Future Development.**

This permit is only for the development described in Coastal Development Permit No. 5-14-0540-A1. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-14-0540-A1. Accordingly, any change in use or intensity of use and any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-14-0540-A1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**6. No Future Shoreline Protective Device.**

- A.** By acceptance of this permit, the applicants/landowners agree, on behalf of themselves and any successors and assigns, that no new shoreline protective device(s) shall be constructed to protect the development approved pursuant to



Coastal Development Permit No. 5-14-0540-A1 including, but not limited to, the residence, garage, patio, deck, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicants/landowners hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable law.

**B.** By acceptance of this Permit, the applicants further agree, on behalf of themselves and any successors and assigns, that the landowner is required to remove the development authorized by the permit if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.

#### **7. Revised Grading and Drainage Plan.**

**A.** Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and written approval of the Executive Director, a revised Grading and Drainage Plan eliminating the retaining wall along the beachfront property line.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an additional Commission amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is legally required.

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

**9. Landscaping-Drought Tolerant, Non-Invasive Plants.** Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>). Use of reclaimed water for irrigation is encouraged. If potable water is used for irrigation only drip or micro spray irrigation systems may be used. Other water conservation measures shall also be considered, such as use of weather based irrigation controllers.

**10. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;

- J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**11. Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (5-14-0540-A1), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. PROJECT DESCRIPTION, LOCATION, AND BACKGROUND**

The proposed amendment includes three related requests: 1) to allow vehicular access to the site from Ocean Avenue (currently allowed only from 4<sup>th</sup> Street); 2) to create one new, 24-foot long, on-street public parking space on the oceanward side of Ocean Avenue at the southwest corner of the intersection of Ocean Avenue and Main Street in Seal Beach; and, 3) to construct a 3 level, 4,342 square foot, 26 foot high (above existing grade at street level), single family residence with an attached 577 square foot, 4 car, two level garage (using 2 car lifts) with vehicular access from Ocean Avenue, on a vacant, 8,332 square foot, sloping, beachfront lot. The lowest level of the proposed

residence (finished floor elevation of approximately 12.5') will be at grade on the seaward side; it will be one level below grade at the street side, due to the slope of the lot, and two levels above the street level. Grading consisting of 1,600 cubic yards of cut to be exported off site is proposed to accommodate the lowest level of the proposed residence at the street side. An interconnected grade beam system foundation is proposed above a concrete slab. No deepened footings are proposed. Balconies and decks are labeled as "terraces" on the project plans. The lower and mid-level terraces are each proposed to be 300 square feet. The lower level terrace is on grade. The upper-level terrace is proposed to be 269 square feet. The seaward 3,450 square foot portion of the lot ("rear yard" on project plans) is proposed to be developed with an at-grade patio, pool with spa, landscaping, 9-foot high shade pergola, and built-in barbeque.

The original coastal development permit, which the current proposal would amend, allowed the demolition of the then existing one-story, single-family residence and subdivision of the 14,700 square foot lot (75 feet wide by 196 feet long) into two smaller lots of: 1) the subject site at approximately 8,330 square feet (42.5-feet x 196-feet); and 2) the lot at 402 Ocean Avenue at approximately 6,370 square feet lot (32.5-feet x 196-feet). The second parcel created by the approved subdivision at 402 Ocean Avenue has been developed pursuant to Coastal Development Permit 5-17-0669 (Weisner, Saeman), which allowed: "construction of a new 3,785 square foot single-family residence with a 468 square foot attached two car garage on a vacant beach front lot." The new residence approved at 402 Ocean Avenue, pursuant to Coastal Development Permit No. 5-17-0669, is three stories (basement with two floors above) on the beach side, and two stories on the street side, and is 32 feet above finished grade.

The subject property is a beachfront lot at the southwest corner of the intersection of Ocean Avenue and 4<sup>th</sup> Street, in the City of Seal Beach ([Exhibit 1](#)). The site is zoned Residential Low Density (RLD-9) in the City of Seal Beach Zoning Code. The subject property is located within an existing urban residential area, northwest of the Seal Beach Municipal Pier, in the area of Seal Beach known as 'Old Town'. Though the subject property is in an urban residential area, it is located immediately adjacent to the wide public beach known as Seal Beach. The subject property slopes upward from its beachfront property line, inland to the level of Ocean Avenue, with an elevation change of approximately 12 feet.

The subject property is located between the first public road (Ocean Avenue) and the sea. There is an approximately 800-foot-wide sandy public beach between the subject site and the mean high tide line. Upcoast and adjacent to the subject site is the 4<sup>th</sup> Street streetend, a pedestrian public accessway linking Ocean Avenue and the beach ([Exhibit 3](#)). Most of the beach fronting lots along this eight-block stretch (between the pier and the San Gabriel River) are developed with single family residences. Along this stretch, the streetends serve as public pedestrian accessways between Ocean Avenue and the beach.

### **Standard of Review**

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program (LCP). The City of Seal Beach does not have a certified Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

### **B. PUBLIC ACCESS**

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Coastal Act requires that public access to and along the coast be maximized. Section 30210 of the Coastal Act protects the public's right to access the shoreline and to recreational opportunities. Section 30252(4) of the Coastal Act requires that new development maintain and enhance public access to the coast by providing adequate parking or providing substitute means of serving the development with public transportation. The proposed project would result in the loss of one on-street public parking space on Ocean Avenue. It will not provide substitute means of serving the development with public transportation. Thus, the question of maintaining existing public parking opportunities, as necessary to maintain public access in the area, must address the loss of the on-street public parking space.

The City of Seal Beach maintains two beachfront parking lots, one located at the pier and the other at the river mouth. A fee is charged to park in these lots. The grid-like public streets of Old Town Seal Beach provide a substantial public parking reservoir used by visitors for beach and pier access and for patrons of the commercial area along Main Street. There is no fee or parking meters within this on-street parking reservoir. The absence of a fee makes these on-street parking spaces more desirable to many visitors. It should be noted, however, that roughly half of these on-street spaces are limited to one-hour parking. The remaining, non-time restricted spaces provide an important parking reservoir for beach goers, who typically stay longer than a single hour. Because many of the on-street spaces are limited to only one-hour parking, the loss of even one non-time restricted parking space closest to the beach and a beach accessway would be significant.

The curb that fronts the subject property and runs along the beach side of Ocean Avenue is located within this popular parking reservoir, and on the ocean side of the street there is no time limit. Vertical pedestrian access to the beach is provided at each of the numbered street streetends, where they intersect Ocean Avenue. Such is the case at the 4<sup>th</sup> Street streetend adjacent to the site ([Exhibit 3](#)). At the time the CDP that allowed the subdivision that created the subject site was approved (5-14-0540), there were no curb cuts along the property on Ocean Avenue. The vehicular access to the former residence at the site was from 4<sup>th</sup> Street. Thus, two to three public parking spaces were available along Ocean Avenue fronting the property prior to the subdivision.

At the time of approval of the subdivision, it was anticipated that each new lot would subsequently be developed with one single family residence. Each new residence would require vehicular access. In considering that subdivision (5-14-0540), the Commission found:

“Construction of the garages and accompanying driveways on them would result in 2 separate curb cuts that would eliminate the 2 to 3 public parking spaces presently available. A lack of public parking discourages visitors from coming to the public beach and taking part in other visitor-serving activities in the Coastal Zone. The general public tends to avoid visiting coastal areas when there is an inadequate public parking supply to accommodate a visit to the coast.

Thus, a lack of parking has an adverse impact on public access. While the proposal does not include the construction of the single-family residences, such future development is anticipated thus, measures must be put into place now to minimize or prevent those anticipated adverse

impacts to public access. All development must, as a consequence, minimize adverse impacts on public access.

Vehicular access to the subject property is currently provided by a driveway located off the 4<sup>th</sup> Street, street end near its' intersection with Ocean Avenue. The proposed subdivision would result in one corner lot (Parcel #1) and one interior lot (Parcel #2). In order to minimize curb cuts along Ocean Avenue and consequently adverse impacts to parking and public access, the number of curb cuts must be minimized. By requiring the corner lot to maintain its' access only via the 4<sup>th</sup> Street, street end and requiring that the interior lot only have access via a single new curb cut along Ocean Avenue, then adverse impacts to public street parking and access will be minimized (Exhibit #3). Furthermore, the width of that curb cut shall be minimized such that public parking can still be provided to the maximum extent feasible. Thus, the Commission imposes **Special Condition No. 1**, which requires that imposes restrictions on the future development of the two lots, as described above.

As conditioned, adverse impacts to public access have been minimized. However, future development may potentially result in adverse impacts to public access. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **Special Condition No. 2**, which requires a future development special condition.”

In approving the 5-14-0540 subdivision, the Commission recognized that one new curb cut would be necessary to provide vehicular access to the new “interior” lot. However, in an effort to minimize the loss of existing on-street public parking spaces on Ocean Avenue, the Commission imposed a special condition requiring that the new lot adjacent to 4<sup>th</sup> Street maintain vehicular access from 4<sup>th</sup> Street, and prohibited vehicular access to that lot from Ocean Avenue. This was intended to reduce the number of curb cuts and related loss of on-street public parking on Ocean Avenue. The Commission’s goal in reducing the number of curb cuts and related loss of on-street public parking was to protect public access by retaining, to the extent feasible, public on-street parking. There is and was no public parking on 4<sup>th</sup> Street (between Ocean Avenue and the beach) because that segment of 4<sup>th</sup> Street is a public pedestrian beach accessway. By requiring that vehicular access from 4<sup>th</sup> Street be maintained, no loss of on-street parking would result from development of the corner (subject) lot. For these reasons, CDP 5-14-0540 was approved with the requirement to maintain vehicular access to the subject site from 4<sup>th</sup> Street only.

However, since approval of CDP 5-14-0540 on November 14, 2014, the City of Seal Beach has consistently declined to allow vehicular access to the subject site from 4<sup>th</sup>

Street. The City has declined vehicular access from 4<sup>th</sup> Street because of its position that it would interfere with safe public pedestrian access along the 4<sup>th</sup> Street public pedestrian accessway to the beach. The City has acknowledged that there remain a few private driveways within the streetend public accessways (such as at the residence opposite 4<sup>th</sup> Street from the subject site), but the City's goal is to eliminate private driveways within these streetend pedestrian accessways as these sites redevelop, such as is occurring with this subject project. The Commission acknowledges there are public access benefits to a vehicle-free pedestrian accessway on 4<sup>th</sup> Street. The City has declined to approve vehicular access from 4<sup>th</sup> Street for over two years. Thus, the applicant is in the position of not being able to comply with both the City's vehicular access prohibition and with the Coastal Commission's vehicular access requirement.

In order to address this impasse, the applicant has proposed creating one new on-street public parking space on Ocean Avenue near the pier, approximately five blocks from the subject site ([Exhibit 5](#)). Currently there is extended red curbing between the crosswalk and the first public parking space on the seaward side of Ocean Avenue, northwest of the intersection with Main Street. The red curbing in this area is 34 feet in length. The applicant has proposed, with the City's concurrence, to reduce the red curbed area to only the 10 feet closest to the crosswalk, creating an additional 24-foot long, public parking space ([Exhibit 6](#)). This is intended to offset the loss of public parking due to the new curb cut proposed on Ocean Avenue to serve the proposed development. The intent of adding one new public on-street parking space on Ocean Avenue is to allow modification of the underlying special condition limiting vehicular access to the subject site only from 4<sup>th</sup> Street.

However, the Commission must still consider whether all aspects of public access are maximized with the project as proposed. The currently proposed curb cut is eighteen feet, four inches wide (reduced from the originally proposed 20 feet). In approving development on the adjacent lot, the Commission considered the width of the driveway/curb cut with respect to the amount of on street space that would remain available for public parking. In approving 5-17-0669 (at neighboring 402 Ocean Avenue, for a single-family residence), the Commission found:

**"A condition was imposed on Coastal Development Permit No. 5-14-0540 that required that only a single new curb cut along Ocean Boulevard be created for this interior lot, with the width of that curb cut minimized such that public parking can still be provided to the maximum extent feasible. The interior lot (Parcel #2) is the subject lot of this permit application, CDP No. 5-17-0669. As proposed, the new curb cut (15-feet, 4-inches in length) has been designed so that public parking along the beach side of Ocean Boulevard has been provided to the maximum feasible." [Emphasis added.]**

The approved driveway width/curb cut for the neighboring site is 15'4". It appears, however, based on a plan submitted by the applicant, that this width did not include the driveway aprons, which would extend the width to 16'. The applicants' currently



proposed 17'1" width does include the driveway aprons ([Exhibit 4](#)). In response to staff questions, the applicant has indicated that the proposed 17'1" width is the narrowest curb cut feasible for the subject site. However, the neighboring property, also with a two-car garage, was developed with a 16' total driveway curb cut, including driveway aprons. The subject lot is 10 feet wider than the neighboring lot (43' vs. 33'). However, there is a crosswalk and an ADA accessible curb cut along the northwest end of the subject site's street frontage nearest to 4<sup>th</sup> Street. This eliminates about 10 feet of street frontage available for parking. Nevertheless, these features do not interfere with the provision of the proposed 17'1" driveway/curb cut width. If the neighboring property can provide adequate access to a two-car garage with a 16' curb cut/driveway, it stands to reason that the subject site could too.

The applicant has indicated that with the proposed 17'1" driveway width and the neighboring driveway width, 18 feet of curb length will remain available for public parking on Ocean Avenue ([Exhibit 4](#)). The applicant suggests that because both ends of the 18-foot length are driveways, a driver would not need the typically required greater length for maneuverability. While that may be true, the greater the curb length, the greater the variety of vehicles that may use the space. More importantly, the greater the curb length, the more obvious it is that the space between the two driveways is a public parking space. By reducing the proposed driveway's total width from 17'1" to no more than 16', the length of the on-street public parking space would be 19'1" (this includes the 8'3" length at 400 and the 10'10" length at 402 Ocean Avenue combined).

While the difference of 1'1" may not seem significant, the construction of single-family residences at the subject and neighboring sites has resulted in the loss of two on-street public parking spaces, although one of these lost spaces will be replaced five blocks south. By maximizing the length of the retained on-street public parking space, the space will be able to accommodate a wider variety of vehicles, and more importantly, will be recognized more obviously as a parking space by the general public. Section 30210 requires that public access be maximized. As proposed, the retained on-street public parking will not be maximized. Therefore, the Commission imposes **Special Condition No. 2** which requires that the total driveway width at the subject site, including the driveway aprons, be limited to no more than 16 feet wide. In addition, **Special Condition No. 2** prohibits any interference with use of the on-street public parking space (such as red curbing and/or signage) on Ocean Avenue. Finally, the Commission also imposes **Special Condition No. 3** requiring the applicant to submit evidence that the new, on-street, public parking space on Ocean Avenue near the intersection with Main Street has been implemented as proposed by the applicant, prior to construction of the home. As conditioned, the proposed development is consistent with the public access policies of the Coastal Act.

The amendment will change the language of a condition that is currently recorded against title to the property. Consistent with the Commission's current practice, the Commission requires a single updated deed restriction referencing all of the special

conditions of the permit. **Special Condition 11** requires recordation of the deed restriction.

### **C. Development: Character & Scale**

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires that new development be sited and designed to protect the scenic and visual qualities of coastal areas and to be compatible with the character of surrounding areas. The beachfront properties in this area along Ocean Avenue between the pier and the river conform with a setback that limits residential development such that it does not extend into the 10-foot wide easement that runs parallel to Ocean Avenue, bifurcating the beach-fronting lots. The easement separates the residential footprints on the landward portion of the lots, from the outdoor patio and landscape type development on the seaward portion of the lots ([Exhibits 2.1](#)). The proposed residence will conform to this residential setback. Decks and patios are allowed to extend into this 10' wide easement area. However, no other decks on other properties include full, residential grade roofs within this setback area ([Exhibit 8](#)).

The proposed development includes a 269 square foot, upper level "terrace" (a deck proposed off the seaward side of the upper level of the residence), that is proposed to be covered by extending the residential roof over the deck for the full 10-foot easement width. This proposed extension of the residential roof over the upper level terrace expands the mass and presence of the proposed residence seaward. Impacts due to this expanded mass are exacerbated by the fact that the proposed residence is immediately adjacent to a public access walkway. The extension of the residential roof seaward into the setback defined by the easement is inconsistent with the character and visual scale of other residences on the beachfront in this area. The existing residences on the beachfront include upper decks with open pergola type shade structures or no structural roof at all. The introduction of a full, residential grade roof into the full 10-foot width of the easement setback area is not consistent with the existing pattern of development, and is inconsistent with the character of the surrounding area. Although no public view exists or will exist from the public access walkway across the upper level terrace (it will be approximately 20 feet above the accessway), it will increase the sense of looming presence along the public beach accessway.

In addition, a full residential grade roof in the setback area may make enclosing the terraces at any or all of the three terrace levels relatively easy. Once such a roof is in place, it becomes more difficult to enforce the setback and to assure the area does not convert to enclosed living area, which would be inconsistent with the established setback line. Indeed, a future applicant might make the argument that since the roof line is already in place, enclosing the balconies/terraces into living area would have little to no effect. Allowing the roof as proposed could have the cumulative effect of expanding the seaward footprint of not only the subject residence, but other residences along the beachfront in the area as well. Thus, such a roof could be precedential for future CDPs in the area as well as for the City's ability to develop an LCP that is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission imposes **Special Condition No. 4**, which requires that the residential roof be revised such that it does not extend into the easement setback area. As conditioned, the proposed development is consistent with the scenic and community character policies of the Coastal Act.

#### **D. Hazards: Future Shoreline Protection**

With regard to hazards, Coastal Act Section 30253 states, in pertinent part:

*New Development shall do all of the following:*

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

Due to its beach fronting location, an inherently dynamic and potentially hazardous area, the project site must be examined for the potential for erosion, flooding, wave attack and wave runup hazards, including consideration of potential impacts due to severe storm events. Moreover, these hazards may be exacerbated by expected future sea level rise, which must also be considered. The sandy beach fronting the site is currently 800 feet wide. In this geographic area, the main concerns raised by development are potential exposure of the proposed development to coastal flood and/or erosion hazards and whether future hazardous conditions might eventually lead to a request to build a shoreline protective device to protect the proposed development. Sea level rise models (CoSMoS) suggest the site will likely not become at risk until near the end the expected 75-year life of the proposed residence ([Exhibit 9](#)). To address questions raised by these issues, the applicant's coastal engineer provided a Coastal Hazard & Wave Runup Study (GeoSoils, Inc., 10/19/2018 and letter update dated 12/18/2019).

The Coastal Hazard & Wave Runup Study prepared for the proposed development ("Report") states that the shoreline in this area has historically not eroded closer than 500 feet seaward of the subject site. The Report further states that the historical highest

ocean water elevation in this project area is +7.7 feet NAVD88. The Report indicates that the elevation of the site at the seaward property line is +13.00 feet NAVD. The subject site's elevation in the area nearest the seaward property line are +12.8 feet, and the proposed lowest level finished floor elevations, nearer the street side of the site, are +12.5.

In November 2018, the Commission adopted a science update to their CCC Sea Level Rise Policy Guidance in response to evolving science on sea level rise and specifically to new statewide guidance from the Ocean Protection Council (OPC) based on two reports: *Rising Seas in California: An Update on Sea-Level Rise* released in April 2017 and an update to the OPC's State Sea-Level Rise Guidance released in April 2018. In the updated OPC guidance document, it states that sea levels may rise between 1.8 feet to 5.3 feet by the year 2095 (the end of the project's estimated 75-year design life). If there were to be a 5.3-foot rise (the upper range of the currently recommended amount of sea level rise expected, taken from the April 2018 COPC projections for southern California), a likely high tide still water level of +13.0 feet NAVD88 (+7.7 [max historical highwater] feet NAVD88 + 5.3 feet [SLR] = +13.0 feet NAVD88) could result. This +13.00 NAVD88 water elevation may begin to reach the rear-yard (seaward side) of the property, near the end of the proposed development's 75-year life ([Exhibit 9](#)).

Regarding future adaptation measures, the Report states:

“In the future, waterproofing of the structure, in combination of flood shields at the structure penetrations (doors), will be effective in excluding flood water from impacting the development. There are currently available systems to exclude water from coming into an area such as the “Quick Dam” system. These type of systems have been successfully used during recent flooding from hurricanes in Texas and Florida. In addition to exclusion systems, there are waterproofing systems such as vapor resistant sheathing, sheet membranes, and waterproof exterior panels. The proposed structure is designed (wood framing and concrete foundation) such that it can be can be retrofitted with a waterproofing system.”

The coastal hazards analysis prepared by the applicant's consultant for the subject site concludes that wave runup and overtopping is not expected to significantly impact the development and site until near the end of its 75-year life, and that the structure could be retrofitted with adaptation measures such as waterproofing in the future. Although the Report indicates that the site is safe for development at this time, and CoSMoS mapping suggests the site would likely be safe with 5.7 feet of SLR ([Exhibit 9](#)), beach areas are dynamic environments and hazards could adversely impact development should the existing predictions of flooding and sea level rise prove to be inaccurate.

The Coastal Act discourages shoreline protection devices because they generally cause significant impacts on coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. This is expected to be exacerbated with future sea level rise. Adverse impacts associated with shoreline protection devices include: as

a sandy beach erodes, the shoreline will generally migrate landward, toward the structure, resulting in reduction and/or loss of public beach area and in some cases, public trust lands, while the landward extent of the beach does not increase; oftentimes the protective structure is placed on public land rather than on the private property it is intended to protect, resulting in physical loss of beach area formerly available to the general public; the shoreline protection device may actually increase the rate of loss of beach due to wave deflection and/or scouring (this is site-specific and varies depending on local factors); shoreline protection devices cause visual impacts and can detract from a natural beach experience, adversely impacting public views; and, shoreline protection devices can lead to loss of ecosystem services, loss of habitat, and reduction in biodiversity compared to natural beaches.

If the proposed project included a shoreline protective device, it likely could not be found consistent with Coastal Act policies. The site specific hazards analysis provided by the applicants' coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards. If the proposed development is not expected to need shoreline protection over the life of the development, it can be found to conform with the hazards policies of the Coastal Act. However, given the dynamic nature of coastal beaches, as well as staff's review of data indicating that the property could be impacted by sea level rise at some point in the future, it is important to make sure that the risks of developing this beachfront lot are borne by the applicant who will benefit from the private development, and not by the public.

To minimize the project's potential future impact on shoreline processes, as well as potential impacts to public access and public trust resources that would accrue if a shoreline protective device were to be constructed on this property, the Commission imposes **Special Condition No. 6**, which prohibits construction of any future shoreline protective device(s) to protect the development approved pursuant to Coastal Development Permit No. 5-14-0540-A1 including, but not limited to the residence, garage, driveway, patio, foundations and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, sea level rise or other natural coastal hazards in the future. In addition, **Special Condition No. 6** requires the applicant to waive any rights to a shoreline protection device in the future. Although no shoreline protection is necessary at this time or anticipated to be necessary in the future, the proposed development is nevertheless located in an area where dynamic and unpredictable coastal hazards exist that could adversely impact the development should existing predictions of flooding and sea level rise prove to be inaccurate. Therefore, the Commission also imposes **Special Condition No. 8**, which requires the applicant to assume the risk of development.

Although not described as necessary or even mentioned in either the Coastal Hazard & Wave Runup Study (GeoSoils, Inc., 10/19/2018 and letter update dated 12/18/2019), or in the Geotechnical Investigation Report (ZS Engineering, 9/26/2018), and letter update (2/19/2019), the Grading and Drainage Plan (Plan Sheet C-1.1) depicts a retaining wall

along the length of the beachfront property line ([Exhibit 2.8](#)). It is not depicted on any of the other project plans submitted with the application and it is not included as part of the proposed project's written description. There appears to be no technical requirement for this retaining wall, based upon the absence of mention of it in either of the technical studies prepared for the proposed development. Neither the height nor depth of this wall is provided. It is also not included in the proposed project's foundation plan.

Nevertheless, structures such as retaining walls could act as a shoreline protective device in the event the site were to become threatened by coastal hazards, including SLR. If this retaining wall were to act as a shoreline protection device, the significant adverse impacts described above could result. No justification of the need for a retaining wall at the seaward property line has been provided. In order to avoid the adverse impacts due to shoreline protection, this retaining wall must be eliminated from the proposed development. Therefore, the Commission also imposes **Special Condition No. 7**, which requires submittal of a revised Grading and Drainage Plan (Plan Sheet C-1.1) which must indicate that the retaining wall along the beachfront property line has been eliminated from the plan.

#### **E. WATER QUALITY & LANDSCAPING**

The proposed project constitutes new development and must be constructed in a manner that protects water quality. The applicants have submitted a Grading and Drainage Plan (Plan Sheet C-1.1) that minimizes adverse impacts to water quality from proposed development by directing post construction site drainage to biofiltration planters or to bottomless drains. Drainage not directed to planters will be pumped to the street level and filtered prior to exiting the site. A trench drain will be installed across the driveway. However, as described above, this plan must be revised to eliminate the retaining wall depicted along the beachfront property line. The revised plan must also depict the measures to be employed to protect water quality. Therefore, the Commission imposes **Special Condition No. 7**, which requires submittal of a revised Grading and Drainage Plan (Plan Sheet C-1.1) that depicts measures to protect water quality and indicates that the retaining wall along the beachfront property line has been eliminated.

The applicant has provided a proposed landscape plan. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

The proposed landscape plan indicates the use of California Native and/or water wise landscaping. While the proposed landscaping consists of non-invasive and drought tolerant plants, future landscaping may not consist of such plants. Therefore, in order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 9**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Also, to minimize erosion and prevent debris from being dispersed down the storm drain system leading to the ocean during construction, the Commission imposes **Special Condition No. 10**, which provides construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

#### **F. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit amendment, the Commission imposes **Special Condition No. 11**, which requires the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit amendment and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

#### **G. LOCAL COASTAL PROGRAM (LCP)**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program that conforms with the Chapter 3 policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

**H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Seal Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Seal Beach determined that the proposed development is a Ministerial Project, meaning the project is exempt from the requirements of CEQA. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the public access, community character and scale, hazards, and water quality policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



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## APPENDIX A

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### **SUBSTANTIVE FILE DOCUMENTS**

1. Coastal Development Permit Amendment Application No. 5-14-0540-A1 and associated file documents.
2. Coastal Development Permit 5-14-0540 (Rothman) and associated file documents.
3. Coastal Development Permit 5-17-0669 (Weisner and Saeman) and associated file documents.
4. Wave Runup and Coastal Hazard Study 400 Ocean Ave, Seal Beach (GeoSoils, 10/19/2018; letter update 12/18/2019)
5. Geotechnical Investigation Report (ZS Engineering, 9/26/2018; letter update 12/19/2019)