

CALIFORNIA COASTAL COMMISSION

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W8b

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-19-1460

Applicant: Adam Cooper

Agent: Gulian Design, Inc. Attention Ed Gulian

Location: 1203 Seal Way, City of Seal Beach (Orange County)
(APN: 199-115-06)

Project Description: Demolish a 1,368 sq. ft., two-story single-family residence with an attached 400 sq. ft. two-car garage, and construct a 5,000 sq. ft., multi-level single-family residence with an attached 484 two-car garage on a beach front lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project is the demolition of an existing single-family home and construction of a new single-family home on a beachfronting lot located in the City of Seal Beach, Orange County.

Commission staff is recommending **APPROVAL** of the coastal development permit application with **six special conditions** to ensure consistency with the hazards, biological resources, marine resources, water quality, public access, and recreation policies of the Coastal Act.

The proposed project is located in an area where coastal hazards exist and can adversely impact the development. No shoreline protective device is proposed to protect the development pursuant to this permit. However, to ensure no shoreline protective device is built in the future, given that the applicant is choosing to construct a home in a potentially hazardous location, staff recommends the Commission impose **Special Condition No. 1**, which requires the applicant to agree that no future shoreline protective device is necessary to protect the proposed development. Staff also recommends the Commission impose **Special Condition No. 2**, which requires the applicant to assume the potential risk of injury and damage arising from coastal hazards that may threaten the development. To guarantee that the future development of the property can be evaluated for consistency with the Coastal Act, staff recommends that the Commission impose **Special Condition No. 3**, which requires the applicant to obtain a permit amendment or a new permit for any future improvements to the residence, garage, patio, decks, and foundation.

During construction and post construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, as a result, staff recommends the Commission impose two special conditions that address and minimize impacts to water quality and marine resources as follows: **Special Condition No. 4** would require construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris; and **Special Condition No. 5** would require the applicant to submit a revised landscape plan that requires all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, staff recommends the Commission impose **Special Condition No. 6**, which requires 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.

As conditioned, the proposed project will conform with Chapter 3 of the Coastal Act, which is the standard of review because the City of Seal Beach does not have a certified Local Coastal Program.

The motion to approve the coastal development permit application is on **Page Five**. The special conditions begin on **Page Six**.

Staff Note: Under the Permit Streamlining Act, the time-frame for Commission action on this coastal development permit application was **August 18, 2020**, 180 days after the filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time-frames for various actions in the Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before **October 17, 2020**.

5-19-1460

Cooper

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

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EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – Site Plan

Exhibit 3 – Floor Plans

Exhibit 4 – Elevation Plans

I. MOTION AND RESOLUTION

Motion:

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

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

Resolution:

The Commission hereby approves Coastal Development Permit Application No. 5-19-1460 for the proposed development and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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 applicant 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 of 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 that the 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. No Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittee agrees, on behalf of himself and all other successors and assigns, that the project is new development for which there is no right to shoreline protection and hereby waives on behalf of himself, and all other successors and assigns, any rights that may exist under applicable law to construct a shoreline protective device to protect the development approved pursuant to Coastal Development Permit No. 5-19-1460, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural coastal hazards in the future.
- B. By acceptance of this permit, the permittee further agrees, on behalf of himself and all successors and assigns, that the landowner is required to remove the development authorized by this permit, including the residence and yard improvements, if 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.
- C. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit. Prior to removal, the permittee shall submit two copies of a Removal Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, including the beach and Pacific Ocean.

2. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agree (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 applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability

against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- 3. Future Development.** This permit is only for the development described in CDP No. 5-19-1460. Pursuant to Title 14 of the California Code of Regulations, Section 13250, the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by CDP No. 5-19-1460. Accordingly, any future improvements to the residence, garage, patio, decks, foundations, and any future improvements including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 of the California Code of Regulations Sections 13252(a)-(b), shall require an amendment to CDP No. 5-19-1460 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.
- 4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittees shall comply with the following construction-related requirements:

 - A.** No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
 - B.** No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
 - C.** Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
 - D.** Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
 - E.** All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - F.** The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - G.** Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal

development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- J. The discharge of 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.

5. Revised Landscape Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of revised landscape plans prepared by an appropriately licensed professional which demonstrates the following:
 - 1. The plans shall demonstrate that:
 - (a) All planting shall provide 90 percent coverage within ninety (90) days and shall be repeated if necessary to provide such coverage;
 - (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with

new plant materials to ensure continued compliance with the landscape plan;

- (c) All landscaping shall consist of native drought tolerant on-invasive plant species native to coastal Orange County and appropriate to the habitat type. 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>); and

2. The plan shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features,
- (b) a schedule for installation of plants; and
- (c) Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall also be considered, such as use of weather-based irrigation controllers.

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 a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels

governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. Project Location and Description

The applicant proposes to demolish a two-story, 1,368 sq. ft. (1,000 sq. ft. street level and 368 sq. ft. lower “daylight” basement level) single-family residence with an attached 400 sq. ft. two-car garage and to construct a multi-level, 5,000 sq. ft. (1,496 sq. ft. street level, 1,921 sq. ft. upper floor above street level and 1,583 sq. ft. at lower “daylight” basement level) single-family residence with an attached 484 two-car garage on a beach front lot. The resulting structure would be three-stories (basement with two floors above) on the beach side with a maximum height of 33 ft. above finished grade, and two-stories on the street side, with a maximum height of 25 ft. above finished grade ([Exhibit 2-4](#)). Grading will consist of 428 cu. yd of cut, 13 cu. yd. of fill and 415 cu. yd of import. The foundation system for the project will consist of footings and a mat slab. There will be temporary shoring at the side property lines to excavate and construct the new lower floor. Development at the rear of the property (beachfronting) will contain a basement level covered patio; a 1st floor (street level) deck, a 2nd floor (upper level) deck; and in the rear yard there will be landscaping, hardscape, pool, pool equipment, spa, cabana, outdoor shower and fire pits.

The project site is a beachfronting lot located between the first public road and the sea at 540 Ocean Avenue within the City of Seal Beach, Orange County ([Exhibit No. 1](#)). The lot size is approximately 6,468 sq. ft. and is currently zoned as Residential Low Density in the City of Seal Beach Zoning Code (not certified by the Commission). The proposed project is development within an existing urban residential area, located northwest of the Seal Beach Municipal Pier. The project site is located just inland of the beach and slopes upward as it goes inland.

The proposed residence would conform to the informal stringline established by an abandoned 10-ft. wide right-of-way (alley). The abandoned alley runs between, and parallel to, Ocean Avenue and the beach. The abandoned alley extends across the middle of the lots located both north of the Seal Beach municipal pier and seaward of Ocean Avenue. The City has established the landward boundary of the abandoned alley as the development limit, or stringline, for seaward encroachment of enclosed living space, and the seaward boundary of the abandoned alley as the limit, or stringline, for seaward encroachment of new patios or decks. The proposed development adheres to both of these development limits. Although the City’s stringlines are not binding on the Commission, the Commission finds in this case that

these living space and patio/deck stringlines establish appropriate limits of development for the proposed development.

Due to the beachfront location of the proposed development, there is a substantial risk of bird strikes. Clear glass walls are known to have adverse impacts upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them which expose them to predation. Birds strike the glass because they either do not see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). The applicant has proposed to address this issue by using bird safe decals on the glass railing along the beachfronting street level deck and upper level deck.

B. 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. 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.

C. Hazards

There is an approximately 650-ft. wide sandy beach between the project site and the Pacific Ocean. Although this is a wide beach, due to its oceanfront location, the project site may nevertheless be potentially exposed to the hazards of waves, erosion, storm conditions, sea level rise or other natural hazards.

Due to its beachfronting 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 beachfronting site has experienced minor, short term, erosion in the past. To prevent wave runup from reaching the public walkway fronting the site, the City has historically built a sand berm each winter, but that development has not been permitted by the Commission. To analyze the suitability of the proposed development relative to potential hazards, the applicant has submitted a coastal hazards analysis of the wave and water level conditions expected at the site as a result of extreme storm, wave action and sea level rise over the next 75-100 years for the planned 75-year life of the proposed residence (see Coastal Hazards Analysis Report for Coastal Development Permit prepared by PMA Consulting, Inc. dated December 4, 2019).

The analyses states that the historical highest ocean water elevation in this project area is +7.7 ft. NAVD88. The proposed finished floor elevation of the "daylight" basement level of the proposed residence is +16.62 ft. NAVD88.

In November 2018, the Commission adopted a science update to its 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. The year 2095 would be the end of the project's estimated 75-year design life, and in the updated OPC guidance document, it states that, using a high emissions, medium-high risk aversion projection, sea levels may rise 5.3 ft. to 6.7 ft. near the end of the project's expected life (year 2090 to year 2100¹). If there were to be a 5.3-ft. rise (the lower range of the currently recommended amount of sea level rise to plan for residential structures, taken from the April 2018 COPC projections for southern California), a highest high water level of +13.0 ft. NAVD88 (+7.7 ft. NAVD88 + 5.3 ft.) could result. This +13.0 NAVD88 would be 3.0 below the proposed finished floor elevation of +16.62 ft. NAVD88. If there were to be a 6.7-ft. rise (the upper range of the currently recommended amount of sea level rise to plan for residential structures), a highest high tide still water level of +14.4 ft. NAVD88 (+7.7 ft. NAVD88 + 6.7 could result. This +14.4 ft. NAVD88 would be 2.22 ft. below the proposed finished floor elevation of +16.62 ft. NAVD88.

An additional regional sea level rise modeling tool used to assess the vulnerability of coastal areas and the 100-year storm is U.S. Geologic Survey (USGS) COSMOS. Using this tool, the visualization shows that with a 100-year storm event, the site may flood from area drainage by less than 175-centimeters (5.7 ft.) of sea level rise. In addition, under a 100-year storm model, most of the surrounding area, all the way to Pacific Coast Highway, will flood with 50 centimeters (1.6 ft.) of sea level rise.

Although the proposed finished floor elevation is higher than the high emissions projections, medium high risk aversion sea level rise range taken from the April 2018 COPC projections for southern California as discussed above, the foundation of the development located approximately at +16.62 NAVD88 could potentially be undermined by sea level rise and the site itself would still be potentially vulnerable to flooding and sea level rise since the project is located in an area where dynamic and unpredictable coastal hazards exist. In the future, these hazards could adversely impact the development and site should the existing predictions of flooding and sea level rise prove to be inaccurate. In order to mitigate future potential seal level rise impacts, the applicant has stated that the residence has been designed so that it can be retrofitted with a waterproofing system.

The coastal hazards analysis for the site concludes that wave runup and erosion will not significantly impact this development and site over the life of the proposed development.

¹ 2095 would be the end of the project's estimated 75-year design life; thus the range of SLR for 2100 overstates current expected impacts under the medium-high risk scenario. However, sea level rise science is continuously updated, and the precautionary principle suggests residential development should be cited and designed to adapt to the upper range of potential impacts.

The report's conclusion is based on application of a lower range of potential sea level rise than the maximum identified in the Commission's guidance, up to 6.0 ft. anticipated by 2095. The report concludes that the property has not been subject to significant wave runup in the past and will not likely be subject to wave runup in the future and that the presence of the relatively wide beach will prevent waves from directly attacking the proposed development. Again, this conclusion is based on application of a lower sea level rise scenario than the maximum SLR scenario analyzed in the previous paragraphs. Additionally, the report found that the proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site, or adjacent area. Furthermore, it states that there are no recommendations necessary for wave runup protection and that the project minimizes risks from ocean flooding.

Although the applicant's report indicates that the site is relatively safe for development at this time, beach areas are dynamic environments. Natural hazards could adversely impact development should the upper range of sea level rise occur (potentially near the end of the project's expected life of 75 years). The applicant has acknowledged that if this level of sea level rise occurs, development will be threatened, and the surrounding public infrastructure may not be viable. The project is proposed on a developed residential lot in a developed residential area, but the area is low lying and may be inundated if sea level rise is severe.

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.

Because the site-specific hazards analysis provided by the applicant's coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards and thus is not expected to need shoreline protection over the life of the development, the project 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 ensure that the risks of developing on this beachfront lot are borne by the applicant, not the public at large.

To minimize the project's potential future impact on shoreline processes, as well as potential impacts to public access and public trust resources should a shoreline protective device be constructed on this property, the Commission imposes **Special Condition No. 1**, which prohibits construction of any future shoreline protective device(s) to protect the development approved pursuant to Coastal Development Permit No. 5-19-1460 including, but not limited to the residence, garage, patio, decks, foundation 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. Although no shoreline protection is necessary at this time and the applicant's hazards analysis states that no shoreline protection device is 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 the applicant's predictions of flooding and sea level rise prove to be inaccurate. Therefore, the Commission imposes **Special Condition No. 2**, which requires the applicant to assume the risk of development.

As discussed previously, the project location is potentially exposed to the hazards of storm conditions, waves, and erosion. Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission imposes **Special Condition No. 3**, which states that any future improvements to the residence, garage, patio, decks, and foundation authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(a) and Title 14 of the California Code of Regulations, Sections 13252(a)-(b), shall require an amendment from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. This condition ensures that any future development on this site that may affect shoreline processes receives review under the Coastal Act by the Commission.

The proposed development, as conditioned, can be found to be consistent with Section 30253 of the Coastal Act, which requires that risks to life and property be minimized, that stability and structural integrity are assured, and that proposed development neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Approval of the project, as conditioned, also is consistent with the Commission's obligation to manage and protect public trust resources.

D. Water Quality

The proposed project constitutes new development and must be constructed in a manner that protects water quality. The applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may cause

after construction. Post construction, on-site drainage will be directed to trench drains/permeable areas. 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. 4**, which provides construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

The applicant has stated that landscaping is proposed, and plans have been submitted. 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) 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>).

Commission staff has reviewed the submitted landscape plan and determined that it contains an invasive plant, *Olea europaea*, and a non-drought tolerant plant, *Ficus pumila*. Therefore, in order to minimize the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 5**, which requires the applicant to submit revised landscaping plans which consist of native plants or non-native drought tolerant plants which are non-invasive. Additionally, use of reclaimed water for irrigation is encouraged, but if potable water is used, only drip or microspray irrigation systems may be used.

Sections 30230 and 30231 of the Coastal Act protect water quality, marine resources, and biological productivity. The applicant has adequately addressed post-construction water quality impacts by submitting a drainage and runoff control plan. As conditioned for the project to submit revised landscaping plans, the project also further addresses biological productivity and protection of native vegetation. Thus, as conditioned, the proposed project is consistent with Sections 30231 and 30232 of the Coastal Act.

E. Public Access

The proposed project will not have an adverse effect on public access. Vertical public access to the beach is available 93 ft. west of the project site at the end of 6th Street. The proposed development provides adequate parking based on the Commission's regularly used parking standard of two (2) parking spaces per individual dwelling unit.

Sections 30210 and 30212 of the Coastal Act require that public access to the coast be provided. Section 30250 of the Coastal Act requires that new residential development

be located where it will not have cumulative adverse impacts on coastal resources. As indicated above, public access to the beach is available nearby. In addition, the project provides sufficient parking so that it does not rely on nearby public parking resources. Therefore, the project will not impact provision of public access consistent with Section 30210, 30212 and 30250 of the Coastal Act.

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, the Commission imposes **Special Condition No. 6**, which requires the property owner to record a deed restriction against the property, referencing all of the special conditions of this permit 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 actual 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, which 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.

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, exempt from CEQA review, in a determination dated November 26, 2019. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the hazards, biological resources, marine resources, water quality, and public access policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which 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.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

City of Seal Beach Planning Department Approval-In-Concept dated November 26, 2019.

Geotechnical Engineering Investigation for Proposed New Residence at 540 Ocean Avenue, Seal Beach, California prepared by Coast Geotechnical, Inc. (W.O. 0563218-01) dated February 27, 2019.

Coastal Hazards Analysis Report for Coastal Development Permit prepared by PMA Consulting, Inc. dated December 4, 2019.

Water Quality Management Plan (WQMP) prepared by Forkert Engineering & Surveying, Inc., dated December 12, 2019.

Letter from Commission staff to Craig S. Hampton, Incorporated dated January 14, 2020.

Response received from Craig S. Hampton, Incorporated to Commission staff dated February 20, 2020.