

CALIFORNIA COASTAL COMMISSION

South Coast District Office
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**F5b**

Staff: F. Sy – LB
Date: October 28, 2021

ADMINISTRATIVE PERMIT

Application No.: 5-21-0396

Applicant: Ed and Edit Komberg

Agent: Cindy Goff

Location: 85A Surfside Avenue, Surfside, Seal Beach (APN No. 178-472-03)

Project Description: Extension of an existing 5 ft. wide, beach-facing (southern) 2nd floor balcony of an existing 1,726 sq. ft., single-family residence by additional 5 ft. (deck would be 10 ft. wide in total post project), resulting in no setback from the seaward property line and/or beach. Also, a 42-inch-tall tempered glass guardrail will be installed, as well as two new 8-inch round column placed below the deck at midpoint (5 ft. distance) for structural support. No other modifications or changes to structure and property are proposed.

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission on November 19, 2021. PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency, California Assembly Bill 361, and the Governor's Executive Orders N-15-21, 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.

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

John Ainsworth
Executive Director

by: Fernie Sy
Coastal Program Analyst

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EXHIBITS

[Exhibit No. 1 – Location Map](#)

[Exhibit No. 2 – Project Plans](#)

STANDARD CONDITIONS

This permit 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 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 term or 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.

SPECIAL CONDITIONS: None.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT DESCRIPTION

The lot is located at 85A Surfside Avenue in the private community of Surfside Colony, in the City of Seal Beach, Orange County ([Exhibit No. 1](#)). The subject site is a beachfront lot located between the first public road and the sea. The proposed development is in an existing private, gated residential community, located south of the

Anaheim Bay east jetty. The proposed project is consistent with development in the vicinity and prior Commission actions in the area. A pre-Coastal (1966) boundary agreement between Surfside Colony and the California State Lands Commission fixes the boundary between State Tidelands and submerged lands and private uplands in Surfside. As a result of this boundary agreement, Surfside Colony, Ltd. owns a strip of the beach, up to 80-ft. in width, adjacent to the homes fronting the ocean. The beach seaward of this area is available for lateral public access. Vertical access is available at the end of Anderson Street to the south of the Surfside community. In addition, the Commission conditioned permit P-75-6364 to allow public access through the gates at the southeastern end of Surfside during daylight hours.

The applicant is proposing the extension of an existing 5 ft. wide, beach-facing (southern) 2nd floor balcony associated with an existing 1,726 sq. ft., single-family residence by an additional 5 ft. (deck would be 10 ft. wide in total post project), resulting in no setback from the seaward property line and/or beach. Also, a 42-inch-tall tempered glass guardrail will be installed, as well as two new 8-inch round column placed below the deck at midpoint (5 ft. distance) for structural support of the extended deck. No other modifications or changes to structure and property are proposed ([Exhibit No. 2](#)). No grading is proposed.

The existing residential structure is located within the applicant's property boundary. However, the existing and proposed decks extend a maximum of 10-ft. beyond the property boundary, over a 10-ft. deep area of land that is owned and leased by Surfside Colony, Ltd. to the applicant. The applicant has a current lease with Surfside Colony, Ltd. for their deck to be located within this 10-ft. deep area of land. Surfside Colony is the community association that owns the common areas of the private community. The applicant has invited Surfside Colony to join as co-applicant; however, Surfside Colony has not chosen to join as of the date of this staff report.

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.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon public access, visual resources and shoreline processes.

The central portion of Surfside, where the proposed project is located, is afforded a degree of protection due to the presence of a wide sandy beach. Even though the wide sandy beach currently protects the project site, this does not preclude wave uprush damage and flooding from occurring at Surfside during extraordinary circumstances. Strong storm events like those that occurred in 1994 and 1997 can cause large waves

to flood any portion of Surfside. Though the subject site may be subject to wave hazards as described above, the Commission finds in this specific case that the proposed development does not warrant the imposition of the following three special conditions; 1) No Future Shoreline Protective Device, 2) Assumption of Risk, and 3) Future Improvements for the reasons articulated below.

The proposed 2nd floor deck extension from 5 ft. to 10 ft. may potentially be affected by wave uprush as they are on the seaward side of the structure. In this case, the Commission finds that the deck extension would not be directly affected by wave uprush, as the bottommost portion of the deck would be approximately 9-ft. above grade ([Exhibit No. 2](#)). Consequently, the 2nd floor deck would only be damaged as a result of the main structure itself being significantly damaged by wave uprush. Accordingly, the proposed deck improvement do not result in an increased hazard to life and property nor would the proposed improvements create or 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 such as the beach. Therefore, the Commission finds that the proposed project is consistent with Coastal Act Section 30253 as submitted.

C. DEVELOPMENT

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The proposed development does not change the use or intensity of use of the site. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

D. PUBLIC ACCESS

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

E. 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 Three 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.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of Seal Beach Planning Department is the lead agency, and the Commission is a responsible agency for the purposes of CEQA. The City of Newport Beach determined on March 31, 2021, that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Class 1 (Section 15301), Existing Facilities. The Commission finds that the project is consistent with Coastal Act requirements and will not cause new adverse impacts to the environment.

Therefore, the Commission finds that there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. The Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing