

CALIFORNIA COASTAL COMMISSION

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Th14b

Filed: 03/17/2022
180th Day: 09/13/2022
Staff: M. Alvarado-LB
Staff Report: 07/28/2022
Hearing Date: 08/11/2022

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-22-0145

Applicants: Ashley & Cameron Rados

Agent: Steve Sennikoff

Location: 255 17th Street, Seal Beach, Orange County (APN: 199-064-01)

Project Description: Major remodel of, and an approximately 1,358-sq. ft. addition to, an existing approx. 1,300 sq. ft., 16.5-ft. high, one-story single-family residence. The project includes a new approximately 864-sq. ft. roof deck.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicants are proposing an approximately 1,358-square-foot addition to an existing approximately 1,300-square-foot, 16.5-foot high, one-story single-family residence. The project will result in an approximately 2,658-sq. ft., two-story, 25-ft. high single-family residence with an attached two-car garage and new roof deck. The proposed project is an extensive renovation and/or major addition (more than 50 percent addition) and constitutes new development.

The City of Seal beach does not have a certified Local Coastal Program (LCP) or a certified Land Use Plan (LUP). Therefore, the standard of review for this permit is Chapter 3 of the Coastal Act.

The project site is an approximately 2,500 square foot, rectangular-shaped lot located approximately 0.26-miles inland from the public beach and 650 feet from Anaheim Bay in an urbanized area characterized by residential developments. The project site is zoned Residential High Density-9 (RHD-20), a zone in which single-family residences are an allowable use. The proposed development will result in a single-family residence that is of a similar mass, scale, and character as the surrounding development. There will be no net change in the number of housing units as the project will maintain one residential unit onsite. There are no public coastal views within the vicinity of the project site, so the project will not adversely impact public coastal views. The project provides adequate onsite vehicle parking, will not displace any public parking resources, and thus is consistent with the Coastal Act's public access policies.

Although the project site is not located within the first line of development from the ocean, the site is within a large, low-lying coastal area that is vulnerable to flooding with approximately 3.3 feet or more of sea level rise. Staff has asked the applicants to provide adaptation measures to address the inherent flooding risk on the project site. In response, the applicants are proposing to waterproof the below grade foundations to protect the structure from potential future coastal flooding. While the applicants has attempted to adapt the proposed residence to account for coastal flooding risks, the fact remains that even modest adaptation measures may not be enough to withstand the flooding that is projected to impact the project site with even 3.3 feet of sea level rise. Because the proposed single-family residence constitutes new development, the residence is not entitled to shoreline protection under Section 30235 of the Coastal Act. Therefore, staff recommends the Commission impose **Special Conditions 1, 2, and 3** requiring the applicants to submit final revised plans that show the proposed adaptation measures for the residence, including the waterproofing details; acknowledge that no shoreline protective device may ever be constructed to protect the proposed new development, even if it is threatened by coastal hazards in the future; and assume the risks for developing in an inherently hazardous area. In further consideration of the hazardous project location, **Special Condition 4** requires an amendment to the permit or an additional CDP, for any future development on the site that would otherwise be exempt from permit conditions. As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Section 30253 of the Coastal Act.

Special Condition 1 also requires that the applicants submit final revised drainage plans to address onsite roof and surface runoff, and to preserve and protect coastal water quality.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-22-0145 with **seven (7)** special conditions. The motion and resolution can be found on **Page 4**.

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Project Plans and Elevations](#)

[Exhibit 3 – CoSMoS Flood Map Analysis](#)

I. MOTION AND RESOLUTION

Motion: I move that the Commission approve Coastal Development Permit Application No. 5-22-0145 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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: The Commission hereby approves Coastal Development Permit Application No. 5-22-0145 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 will 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 applicants 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 applicants to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Revised Final Plans

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and written approval of the Executive Director, two full-size sets of the following final plans, bearing an approval-in-concept stamp from the City of Seal Beach, which shall include, but shall not be limited to:
 - I. Foundation plans identifying waterproofing of the below grade foundations.
 - II. Drainage and Runoff Control Plan, which shall include and be consistent with the following:
 - (a) Runoff from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be directed to dry wells, trench drains or vegetated/landscaped areas to the maximum extent practicable within the constraints of City requirements and geotechnical recommendations;
 - (b) Where City code prohibits on-site infiltration, runoff shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to the maximum extent practicable. Runoff from impervious surfaces that cannot feasibly be directed to the street shall be discharged via pipe or other non-erosive conveyance to a designated outlet point to avoid ponding or erosion either on- or off-site.
- B. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.
- C. The permittees shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. Waiver of Rights to Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittees/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. 5-22-0145 including, but not limited to, the residence, garage, balcony, 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 permittees/landowners hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable law. By acceptance of this permit, the permittees/landowners acknowledge that

the development authorized by this permit – including, but not limited to, the residence, garage, balcony, patio, deck and any other future improvements – constitutes new development under the Coastal Act, and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the permittees hereby waives, on behalf of itself and all successors and assigns, any rights to construct such shoreline protective devices to protect the development approved pursuant to CDP No. 5-22-0145.

- B. By acceptance of this Permit, the permittees further agree, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by the permit, including, but not limited to, the residence, garage, balcony, patio, deck, and any other future improvements, and restore the site, if: (1) 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 damage or destruction from waves, flooding, erosion or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of shoreline protective devices; (2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above; (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.
3. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittees acknowledge and agree (i) that the site may be subject to hazards including but not limited to waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the permittees 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; (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; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; (vi) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; (vii) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and

(viii) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.

4. **Future Development.** This permit is only for the development described in CDP No. 5-22-0145. Pursuant to Title 14 of the California Code of Regulations Section 13250(b), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by CDP No. 5-22-0145. Accordingly, any future improvements to the residence, garage, decks, and any other 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. 5-22-0145 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.
5. **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, and any remaining construction material, 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.
6. **Landscaping – Drought Tolerant, Non-Invasive Plants.**
- A. 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: https://ucanr.edu/sites/WUCOLS/WUCOLS_IV_User_Manual/ and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
 - B. 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 be considered, such as weather based irrigation controllers.
7. **Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants 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 project site is an approximately 2,500 sq. ft., rectangular-shaped lot at 255 17th Street in Seal Beach in an urbanized area characterized by single-family residential development ([Exhibit 1](#)). The project site is zoned Residential High Density-9 (RHD-20), a zone in which single-family residences are an allowable use. The neighborhood in which the project site is located is characterized by one and two-story single-family and multi-family residences, ranging between approximately 1,000 square feet and approximately 3,000 square feet in size. The proposed resulting residence, at 25 feet in height and 2,658 square feet in size, is of a similar mass and scale as the surrounding development and will not be out of character with the area. There are no public coastal views within the vicinity of the project site, so the project will not adversely impact public coastal views. No grading is proposed for the project.

The proposed development is a major remodel of, and an approximately 1,358-square-foot addition to, an existing approximately 1,300-square-foot,¹ 16.5-foot high, one-story single-family residence with an attached two-car garage ([Exhibit 2](#)). The project includes an approximately new approximately 864-square-foot roof deck. The project will result in an approximately 2,658-square-foot, two-story, 25-foot-high single-family residence with an attached two-car garage and roof deck. The proposed project constitutes new development—as well as an extensive renovation and/or major addition (more than 50 percent addition).

The project site is an inland lot that is sited in a developed area located approximately 0.26-mile inland from the public beach, 650 feet from Anaheim Bay, and 1-mile inland from the San Gabriel River. However, the project site is located in a low-lying coastal area that is subject to coastal hazards. The primary issue raised by the project is the potential for the project site to be impacted by coastal flooding resulting from sea level rise over the coming decades.

The City of Seal Beach does not have a certified Local Coastal Program (LCP) or a certified Land Use Plan (LUP). Therefore, the standard of review for this permit is Chapter 3 of the Coastal Act.

¹ The existing single-family residence consists of approximately 868 square feet of living area and an attached approximately 430-square-foot garage, which totals approximately 1,300 square feet.

B. HAZARDS

Coastal Act section 30253 states, in 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...
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project raises potential hazards concerns related to the project site's location in a low-lying area that is inherently vulnerable to flooding. Thus, potential hazards issues that must be addressed include the potential for flooding and storm hazards associated with locating development in an area that is currently vulnerable to flooding. These hazards may be exacerbated by the sea level rise that is expected to occur over the coming decades.

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years. Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. On November 7, 2018, the Commission adopted a science update to its Sea level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the

development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.” The most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 feet and 6.8 feet by the year 2100, though there is a risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the “business as usual” scenario (and data suggests temperatures and sea level rise are tracking along the higher projections), the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well (as evidenced by the recent updates to best available science). While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear, and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm impacts to coastal areas. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

Although the project site is not located within the first line of development, the site is within a large, low-lying coastal area that is particularly vulnerable to flooding. This vulnerability is further exacerbated with sea level rise and increased storm surge activity.

The Coastal Commission, in line with statewide guidance, generally advocates for a precautionary approach to sea level rise adaptation planning, which stems from the overall importance of keeping development safe from coastal hazards and protecting

coastal resources, consistent with the Coastal Act. It also derives from the fact that the costs and consequences associated with inadvertently underestimating SLR hazards could be quite high. As explained in the State of California Sea Level Rise Guidance written by the Ocean Protection Council (OPC), the “risk aversion scenario” is a principle of SLR risk analysis that is used to account for variable risk tolerance for different types of development by establishing SLR probability thresholds for varying degrees of risk aversion. For example, a critical infrastructure asset, such as a hospital, should be analyzed with high risk aversion, and would use a more precautionary range of probabilities of amounts of SLR, while a parking lot or a bike path could be analyzed with lower risk aversion. In this case, the risk aversion scenario recommended by both the Commission and OPC Guidance for residential projects is “medium-high,” as it represents a scenario that is relatively high within the range of possible future SLR scenarios and is therefore appropriately precautionary. In other words, the statewide SLR guidance recommends use of the relatively high projection of SLR associated with the medium-high risk aversion scenario, even though it has a lower probability (1-in-200 chance), because of the high consequences to precious coastal resources, valuable development, and life and safety that would occur if SLR were underestimated, and the recognition that many of these impacts cannot be undone once they have occurred.

Given the project site’s location within a potentially hazardous area, the applicants submitted a coastal hazards study, which was prepared to analyze potential risks to the project site resulting from coastal flooding and other hazards (including wave uprush and coastal erosion). The study states that the proposed project, which is identified in the report as a minor remodel, will have a finished floor elevation of 11.39 feet NAVD88 and would be relatively safe from flooding until about the year 2080, or when SLR is 3.8 feet or greater. In addition, the study concludes that future adaptation measures are feasible at the project site. This study does not recognize the proposed project (major remodel due to substantial addition) as new development. However, the proposed project constitutes new development—as well as an extensive renovation and/or major addition (more than 50 percent addition). Consequently, the Commission’s review of new development analyzes a 75-year design life for the proposed development. According to CoSMoS SLR models, the project site is susceptible to flooding under 3.3 feet or more of sea level rise and no storm scenario, which may occur before the anticipated end of the structure’s life ([Exhibit 3](#)). Under the medium-high risk aversion scenario, 3.3 feet of sea level rise may occur by the year 2070.

Given the risk of flooding during the project’s expected life, adaptation measures to address the inherent flooding risk on the project site are required. In response, the applicants proposed to waterproof the below grade foundations to protect the structure from scouring and saltwater intrusion that could result from coastal flooding. While the applicants have attempted to adapt the proposed residence to account for coastal flooding risks, the fact remains that even modest adaptation measures may not be enough to withstand the flooding that is projected to impact the project site at even 3.3 feet of sea level rise. Because the project is located inland of the first line of homes and the bay, it is not expected to be subject to wave action. But flooding may occur during the life of the development, which may affect the subject residence and the surrounding streets and utilities.

Because the proposed project constitutes new development, the residence is not entitled to shoreline protection under Section 30235 of the Coastal Act. Therefore, the Commission imposes conditions to ensure that the applicants develop the project to adapt to sea level rise, waives the right to future shoreline protection, and assumes the risks of the development. **Special Condition 1** requires the applicants to submit final revised plans that show the proposed adaptation measures for the residence, including the proposed waterproofing details. **Special Condition 2** requires the applicants to acknowledge that no shoreline protective device may ever be constructed to protect the new single-family residence, even if it is threatened by coastal hazards in the future. **Special Condition 3** requires the applicants to assume the risks of developing a new single-family residence in an inherently hazardous area. Furthermore, any potential changes to the proposed project may result in adverse impacts to coastal resources. In further consideration of the hazardous project location, **Special Condition 4** requires an amendment to CDP No. 5-22-0145, or an additional CDP, for any future development on the site that would otherwise be exempt from permit conditions. As proposed by the applicants and conditioned by the Commission, the project can be found to be consistent with Section 30253 of the Coastal Act pertaining to hazards.

C. DEVELOPMENT

Section 30250 of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas. (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

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....

Section 30253(e) of the Coastal Act states:

Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Although the project site is not located adjacent to the ocean, it is within a low-lying coastal area that is vulnerable to coastal flooding hazards. Development which may require a protective device in the future cannot be allowed due to the adverse impact such devices have upon, among other things, public access, visual resources, and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite (**Special Condition 1**); prohibit construction of protective devices (such as a seawall) in the future (**Special Condition 2**); and to require that the landowner and any successor-in-interest assume the risk of undertaking the development (**Special Condition 3**).

There are no public coastal views within the vicinity of the project site, so the project will not adversely impact coastal views. The project will also maintain the existing residential density onsite. Overall, the project is consistent with Section 30251 regarding community character and visual resources.

As conditioned, the Commission finds that the proposed development conforms with Sections 30250, 30251, and 30253 of the Coastal Act.

D. 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 30214 of the Coastal Act states, in relevant part:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
 - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
 - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

The public access policies of the Coastal Act provide for the protection and enhancement of all people's opportunity to access the coast and enjoy coastal recreation. This includes Section 30252, which states that new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development through public transportation.

Two vehicle parking spaces will be provided onsite and will be accessed through the alleyway between 16th and 17th Street that is accessible via Landing Avenue. The project does not propose any curb cuts and, therefore, no public parking spaces will be impacted. The subject residence, which fronts 17th Street, adheres to the City's setback requirements and does not encroach onto the public right-of-way along 17th Street. Therefore, the project is consistent with the Chapter 3 public access policies because it will not displace any public vehicle parking spaces that are used for coastal access.

As proposed, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, the proposed development conforms with Sections 30210 and 30214 of the Coastal Act.

E. WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Water Quality

Sections 30230 and 30231 of the Coastal Act require that marine resources and the biological productivity of coastal water be maintained and enhanced. The proposed project has the potential to adversely impact the water quality of the nearby Pacific Ocean. Storage or placement of construction materials, debris, or waste in a location

subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 5**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicants to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far away from a storm drain inlet and receiving waters as possible.

The proposed development has the potential to discharge polluted runoff from the project site. To ensure proper drainage and run-off control is implemented, a final drainage and run-off control plan is required by **Special Condition 1**, which states that runoff from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be directed to dry wells, trench drains or vegetated/landscaped areas to the maximum extent practicable within the constraints of City requirements; and where City code prohibits on-site infiltration, runoff shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to the maximum extent practicable.

The applicants are proposing new landscaping. Therefore, **Special Condition 6** requires the applicants to utilize only drought tolerant, non-invasive plant species and water conservative irrigation systems for any new landscaping.

Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

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 7**, which requires that the property owners record a deed restriction against the property, referencing all the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that 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

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. On July 28, 1983, the Commission denied the proposed 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 Title 14 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. However, the City received an LCP Grant from the Commission in 2016 and is working toward the completion of a sea level rise vulnerability assessment and Local Coastal Program update.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 exempt under Section 15301(e) of CEQA. As conditioned, 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, either individually or cumulatively with other past, present, or reasonably foreseeable probable future projects. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. Coastal Development Permit Application No. 5-22-0145 and associated file documents.
2. Sea Level Rise Policy Guidance, Original Guidance, dated August 12, 2015
3. Sea Level Rise Science Update, dated November 7, 2018
4. State of California Sea-Level Rise Guidance (2018 Update)
5. Sea Level Rise Flood Hazard Discussion for 255 17th Street, Seal Beach, Orange County, California, by Geosoils Inc., dated May 16, 2022.