

**CALIFORNIA COASTAL COMMISSION**

South Coast District Office  
301 E Ocean Blvd., Suite 300  
Long Beach, CA 90802-4302  
(562) 590-5071



# Th6b

Filed: 2/17/23  
180<sup>th</sup> Day: 8/16/23  
Staff: FSY-LB  
Staff Report: 6/22/23  
Hearing Date: 7/13/23

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-22-0003

**Applicant:** James Cliff Page

**Agent:** Eddie Kesky

**Location:** 320 8<sup>th</sup> Street, Seal Beach, Orange County (APN: 043-112-10)

**Project Description:** Demolition of an existing 922 sq.ft. single-family residence and 360 sq.ft. two-car garage and construction of a 24 ft., 6-in high, 2,211 sq.ft. two-story single-family residence with a detached 370 sq.ft. two-car garage and a 513 sq.ft. ADU located over the garage.

**Staff Recommendation:** Approval with conditions.

## SUMMARY OF STAFF RECOMMENDATION

The proposed project is the demolition of an existing single-family residence and garage and construction of a new single-family residence with a detached garage with an ADU over the garage on an inland lot located in the City of Seal Beach, Orange County.

Commission staff are recommending **approval** with **six special conditions** to ensure consistency with the development, hazards, biological resources, water quality and public access policies of the Coastal Act.

While the proposed project is located on an inland lot, it is still located within an area where coastal hazards exist and could adversely impact the development. No shoreline

protective device is proposed to protect the development pursuant to this permit. However, given that the applicant is proposing to construct a new residence in a potentially hazardous location, staff recommends the Commission impose **Special Condition No. 1**, requiring the applicant to agree that no future shoreline protective device may be relied on to protect the development authorized by this permit. In addition, this condition requires that if any part of the proposed development becomes threatened by coastal hazards in the future, the threatened development must be removed rather than protected in place. Staff also recommends the Commission impose **Special Condition No. 2**, requiring the applicant to assume the potential risk of injury and damage arising from coastal hazards that may threaten the development. 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.

During construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, staff recommends the Commission impose **Special Condition No. 3** which provides standards for the safe storage of construction materials and the safe disposal of construction debris. Onsite drainage will be directed to a trench drain located at the rear of the property, where water will be filtered via gravel and then allowed to percolate into the ground, before entering the main storm drain system. However, to ensure that these post construction Best Management Practices (BMPs) are maintained and if necessary repaired to continue to minimize impacts to water quality, the Commission imposes **Special Condition No. 4**, which identifies that the applicant is responsible to maintain post construction BMPs. Staff also recommends the Commission impose **Special Condition No. 5**, which requires that all vegetated landscaped areas only consist of native plants or non-native drought tolerant plants that are non-invasive.

To ensure that any prospective future owner(s) of the properties 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 to record a deed restriction against the properties, 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 conforms 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 CDP application is on **Page 4**. The special conditions begin on **Page 5**.

## TABLE OF CONTENTS

<a href="#">I. MOTION AND RESOLUTION</a> .....	4
<a href="#">II. STANDARD CONDITIONS</a> .....	4
<a href="#">III. SPECIAL CONDITIONS</a> .....	5
<a href="#">IV. FINDINGS AND DECLARATIONS</a> .....	9
<a href="#">A. Project Description, Location and Previous Permit</a> .....	9
<a href="#">B. Standard of Review</a> .....	10
<a href="#">C. Development</a> .....	10
<a href="#">D. Hazards</a> .....	11
<a href="#">E. Biological Resources/Water Quality</a> .....	16
<a href="#">F. Public Access</a> .....	17
<a href="#">G. Deed Restriction</a> .....	17
<a href="#">H. Local Coastal Program (LCP)</a> .....	18
<a href="#">I. California Environmental Quality Act (CEQA)</a> .....	18
<a href="#">APPENDIX A – SUBSTANTIVE FILE DOCUMENTS</a> .....	19

## EXHIBITS

[Exhibit No. 1 – Location Map](#)

[Exhibit No. 2 – Site Plan](#)

[Exhibit No. 3 – Floor Plans](#)

[Exhibit No. 4 – Section Plans and Elevation Plans](#)

[Exhibit No. 5 – Drainage Plan and Foundation Plan](#)

## 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. 5-22-0003 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 owner 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 itself and any successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-22-0003 including, but not limited to, the residence, garage, and foundation, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, any similar provision of a certified LCP, or any applicable law.
- B. By acceptance of this Permit, the permittee further agrees, on behalf of itself and all successors and assigns, that it is required to remove all or a portion of the development authorized by this permit and restore the site, if:
  - i. The City of Seal Beach or any government agency with 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, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices;
  - ii. Essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
  - iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
  - iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP No. 5-22-0003 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachment onto public

trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

- 2. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards including but not limited to 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. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

  - A.** No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
  - B.** No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
  - C.** Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
  - D.** Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
  - E.** All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
  - F.** The 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.
  - N. During construction of the project, no runoff, site drainage or dewatering shall be directed from the site into any street, alley or storm drain, unless specifically authorized by the California Regional Water Quality Control Board.
4. **Permanent Drainage and Runoff Control Plan.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, two (2) sets of final Drainage and Runoff Control Plans for the postconstruction project site, prepared by a licensed civil engineer or qualified licensed water quality professional. The plan shall include detailed drainage and runoff control plans with supporting descriptions and calculations. The plan shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather runoff leaving the developed site. The consulting licensed civil engineer or qualified licensed professional shall certify in writing that

the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- A. The plan shall incorporate appropriate Best Management Practices (BMPs) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner into the City's storm drain system;
- B. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the permittee or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

The permittee shall undertake development in accordance with the final Drainage and Runoff Control Plan approved by the Executive Director. Any changes to the Commission approved plans required by the consulting licensed civil engineer or engineering geologist shall be reported to the Executive Director. No changes to the Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## **5. Landscaping-Drought Tolerant, Non-Invasive Plants.**

- A. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants that 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/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.



- 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 landowner(s) has/have executed and recorded against the parcel 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 the 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 recorded against title to the property shall include a legal description of that entire parcel. 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 Description, Location and Previous Permit

The applicant proposes to demolish an existing 922 sq.ft. single-family residence and 360 sq.ft. detached two-car garage and construct a 24 ft., 6-in high, 2,211 sq.ft. two-story single-family residence with a detached 370 sq.ft. two-car garage and a 513 sq.ft. Accessory Dwelling Unit (ADU) located over the garage ([Exhibits No. 2-5](#)). No grading is proposed. The foundation system will consist of footings and a concrete mat slab. Onsite drainage will be directed to a trench drain at the rear of the property, where water will be filtered via gravel and then allowed to percolate into the ground, before entering the main storm drain system. Landscaping is proposed.

The project site, 2,938 square feet in size (25 ft. wide x 117.50 ft. long), is located at 320 8<sup>th</sup> Street in the City of Seal Beach, Orange County ([Exhibit No. 1](#)). The project site is located on the seaward side of Pacific Coast Highway in a residential neighborhood in the Old Town area of Seal Beach. The predominant character of the surrounding area is one or two-story residential structures with parking accessed from rear alleyways. The proposed residence is of similar mass and scale as the surrounding development, the parking will be accessed from the rear alleyway, 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 coastal views.

The City of Seal Beach, which does not have a certified Local Coastal Program (LCP), designates the project site as Residential High Density (RHD20) in its Zoning Code. The Zoning Code is not certified by the Commission. The project site is an inland lot not located between the first public road (Pacific Coast Highway) and the sea. North of the

project site is 8<sup>th</sup> Street; East and West of the project site are residential developments; and South of the project site is an alley.

On March 13, 1992, the Commission approved Exemption No. 5-13-034-X (Randolph) for the remodel and addition to an existing 844 square foot, one-story single-family residence with a detached 300 square foot one-car garage. The project more specifically consisted of: 1) an addition of 65 square feet to the existing residence; and 2) an addition of 130 square feet to the existing garage to accommodate one additional car. Post project, the single-family residence remained one-story, did not exceed 15-feet above existing grade and consisted of 909 square feet with a detached 430 square foot two-car garage.

## **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. Development**

Section 30250 of the Coastal Act states, in pertinent part:

(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.

Section 30250 of the Coastal Act requires new development to be sited as close as possible to existing developed areas, where it can be accommodated without adverse impacts to coastal resources. The Commission has, in previous actions, generally required new development in existing developed areas to maintain housing density.

The proposed project will demolish an existing single-family residence and replace it with another single-family residence, but now also include an ADU located over the new detached two-car garage. This will result in an additional housing unit onsite, which increases density consistent with Section 30250 of the Coastal Act by providing additional development as close as possible to existing developed areas.

The City of Seal Beach, which does not have a certified LCP, designates the lot as Residential High Density (RHD-20) in its Zoning Code with a maximum development of 25 dwelling units/acre, or one unit per 2,178 sq. ft. The lot size is 2,938 sq. ft. Accessory Dwelling Units and Junior Accessory Dwelling Units (JADU) consistent with the requirements of Section 11.4.05.115 Accessory Dwelling Units of the City's Zoning Code are allowed by right on a lot that is zoned to allow single-family use or multifamily residential use. Thus, the project will be consistent with the City's Zoning Code.

The proposed development, as conditioned, is consistent with Section 30250 of the Coastal Act pertaining to new development.

## **D. Hazards**

The proposed project is sited 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. 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 in order 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 3.2 ft. and 6.7 ft. by the year 2100, though there is a risk of 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) as well as the inherent uncertainty regarding the exact rate of future sea level rise, 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 in many locations, 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 adjacent to the ocean, the site is within a large, low-lying coastal area that is particularly vulnerable to flooding from both the ocean and the bay. 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.

According to the November 7, 2018, update to the Commission’s Sea level Rise Policy Guidance document, sea level rise analysis of residential development should include low-risk and medium-high risk aversion scenarios. As such, Commission staff conducted an analysis of a low-risk and medium-high risk aversion with high emissions over the project’s design life of 75 years (spanning until 2098). The highest high tide in the project area is +7.0 ft. NAVD88 and the proposed Finished Floor Elevation is +11.83 ft. NAVD80.

Applying a low risk aversion scenario, the OPC guidance document provides that sea levels may rise to 3.2 ft. in 2100 (High Emissions), by the end of the project’s estimated 75-year design life in 2098.

For a medium-high risk aversion scenario, the OPC guidance document provides sea levels may rise 6.7 ft. in 2100 (High Emissions) by the end of the project’s estimated 75-year design life in 2098.

Based on the low-risk aversion scenario by 2098 following the Commission’s Sea Level Rise Guidance, if there were to be a 3.2 ft. rise, a high tide still water level of +10.2 ft. NAVD88 (+7.0 ft. NAVD88 +3.2 feet = +10.2 ft. NAVD88) is anticipated. This +10.2 ft. NAVD88 would be 1.63 ft. below the Finished Floor Elevation of +11.83 ft. NAVD88 for the single-family residence structure.

Based on the medium-high risk aversion scenario by 2098 following the Commission’s Sea Level Rise Guidance, if there were to be a 6.7-ft., a high tide still water level of +13.7 ft. NAVD88 (+7.0 ft. NAVD88 + 6.7 ft. = +13.7 ft. NAVD88) is anticipated. This +13.7 ft. NAVD88 would be 1.87 ft. above the Finished Floor Elevation of +11.83 ft. NAVD88 for the single-family residence structure.

While the project has been designed to adequately address the low risk aversion scenario, the proposed development has not been designed to address the flooding from the medium risk aversion scenario resulting in 6.7 ft. of sea level rise by the end of the project’s 75-year design life in 2098. However, to address the flooding from the medium risk aversion scenario, the applicant has proposed to waterproof the foundation and a 4 ft. high section of the exterior building walls from the base of the Finished Floor Elevation of +11.83 NAVD88 of the single-family residence structure. Thus, the exterior

walls will be waterproofed to the elevation of +15.83 NAVD88. Additionally, the applicant has proposed in the future, if necessary, to install sand or gravel bags stacked at the first floor door openings.

The detached garage with ADU located over it has a finished floor elevation varying from +11.40 NAVD88 to +11.83 NAVD88. The applicant has also proposed to waterproof the foundation and a 4 ft. high section of the exterior building walls from the base of the Finished Floor Elevation. However, in this case, the livable area is already located at an elevation of approximately +22.58 NAVD88, which would already be designed to address the low-risk and medium-high risk flooding scenario.

The applicant does not anticipate that sea level rise will impact the proposed development. However, as discussed above and also shown on the CoSMoS sea level rise model, the project site would still be susceptible to flooding if 3.3 ft. of sea level rise occurs in conjunction with a 100-year storm scenario, which may occur before the anticipated end of the structure's 75-year expected life, because flooding may come from the low-lying areas near the site as a result of the geography of the Anaheim Bay and Seal Beach National Wildlife Sanctuary. The site would also be susceptible to regular flooding with 3.3 ft. of sea level rise and no storm. While the project is located inland of the first line of residences and the nearby Anaheim Bay and Seal Beach National Wildlife Sanctuary and is not expected to be subject to wave action, flooding may still occur during the lifetime of the development and affect the residences and surrounding streets and utilities.

The proposed development is not expected to require shoreline protection over the life of the development, and therefore 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 the Commission'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 these inland lots are borne by the applicant, not the public at large.

Section 30253 prohibits new development that would require construction of a protective device that would substantially alter natural landforms along bluffs or cliffs. Here, the applicant has not proposed to construct a shoreline protection device and no shoreline protection would be authorized by this permit; however, the applicant or a successor-in-interest could request a shoreline protection device at some point in the future. Although the project site is not a beachfront site, with expected sea level rise and flooding, the area between the project site and ocean waters is expected to narrow with time. Likewise, flooding from Anaheim Bay and Seal Beach National Wildlife Sanctuary harbor is expected to approach the project site in the future, which in turn raises the question of a possible request for future shoreline protection at the site. Therefore, it must be clear that, as new development, the entire development approved by this permit is not entitled to a shoreline protection device now or in the future.

**Special Condition No. 1** is imposed to require the applicant to acknowledge that the applicant has no right to a shoreline protective device for the project and that no future shoreline protective device will be allowed on site to protect the proposed development.

Given that coastal hazards may impact the proposed development before the end of its economic life as a result of sea level rise as identified by adherence to the November 7, 2018, science update to the Commission's Sea level Rise Policy Guidance and CoSMoS, the Commission must also find that the project assures stability and structural integrity and minimizes "risks to life and property" in an area of high flood hazard without a shoreline protective device. Here, it is important to note that the site is not currently threatened by coastal hazards and has been designed to be stable and structurally sound under current conditions, as acknowledged by the applicant. However, taking into consideration future coastal hazards occurring before the end of the development's economic life, the single-family residence has been designed to incorporate a waterproof foundation and walls, and in the future, if necessary, sand or gravel bags stacked at the first floor door openings. In addition, the detached garage with an ADU located above it has been designed to address future sea level rise.

As discussed, the best available science indicates that sea level rise is occurring and coastal hazards may threaten the project site to some extent before the end of its economic life, although there are uncertainties inherent in predicting exactly how and when the impacts discussed above will occur. Therefore, **Special Condition No. 1** requires that if any part of the proposed development becomes threatened by coastal hazards in the future, the threatened development must be removed rather than protected in place. This condition recognizes that predictions of the future cannot be made with certainty, thereby allowing for development that is currently safe and expected to be safe for the life of the development, but ensuring that the future risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant enjoying the benefits of new development, and not the public.

The Commission also finds that due to the possibility of flooding and other coastal hazards, if the applicant chooses to build in this location despite those risks, they must assume the risks of development in a hazardous area as a condition of project approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition No. 2**, will show that the applicant is aware of and understands the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the subject development, and will effectuate the necessary assumption of those risks by the applicant.

The proposed development, as conditioned, is 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 new 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.

## E. Biological Resources/Water Quality

### Construction Impacts to Water Quality

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 could result in adverse impacts upon the marine environment that could reduce the water quality and 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 to water quality and biological productivity and to be consistent with Sections 30230, 30231 and 30232 of the Coastal Act, conditions must be imposed. Thus, the Commission imposes **Special Condition No. 3**, 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 applicant 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 as far away from a storm drain inlet and receiving waters as possible. As conditioned to protect water quality and biological productivity through the implementation of requirements for safe storage of construction materials and safe disposal of construction debris, the project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

### Post-Construction Impacts to Water Quality

The proposed project is considered development and there is an opportunity to improve water quality as required by Sections 30230, 30231 and 30232 of the Coastal Act. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize, to the extent feasible within its jurisdiction, the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. In order to address these post-construction water quality impacts and to be consistent with Sections 30230, 30231 and 30232 of the Coastal Act, the applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. Onsite drainage will be directed to a trench drain located at the rear of the property, where water will be filtered via gravel and then allowed to percolate into the ground, before entering the main storm drain system. However, to ensure that these post construction Best Management Practices (BMPs) are maintained and if necessary repaired to continue to minimize impacts to water quality, the Commission imposes **Special Condition No. 4**, which identifies that the applicant is responsible to maintain post construction BMPs.

The proposed project includes landscaping and the applicant has submitted a landscape plan, which will consist of drought tolerant plants, which are non-invasive.



For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). In order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 5**, which imposes landscape controls that require that all vegetated landscaped areas consist of native or non-native, drought tolerant plants, which are non-invasive and to implement the proposed drainage plan so that water is captured and filtered on site.

Therefore, as conditioned, biological resources and water quality is protected, consistent with Sections 3020, 30231 and 30232 of the Coastal Act.

## F. Public Access

Section 30210 of the Coastal Act requires that public access to the coast be provided and Section 30250 of the Coastal Act requires that new residential development will be located where it will not have cumulative adverse impacts to coastal resources.

Vertical public access to the beach is located approximately less than ½ a mile west of the site at the end of 8<sup>th</sup> Street. As such, public access is available near the site and the proposed project will not adversely impact that access consistent with Section 30210 of the Coastal Act.

The proposed project also provides parking consistent with the standard of two parking spaces per residential dwelling unit, which the Commission has regularly used for development in Seal Beach. Therefore, the development will not rely on public parking resources for access, aside from temporary construction-related parking impacts. Thus, the proposed project will not result in direct adverse impacts, either individually or cumulatively, on vertical or lateral public access consistent with Section 30250 of the Coastal Act.

Therefore, as conditioned, public access is protected, consistent with Sections 30210 and 30250 of the Coastal Act.

## G. 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 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, 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.

## **H. Local Coastal Program (LCP)**

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

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

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.

## **I. 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 on November 22, 2021, that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Class 1 (Section 15303 – Class 3(a)), New Construction or Conversion of Small Structures. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the development, hazards, biological resources, water quality, and public access policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

City of Seal Beach Approval-In-Concept dated August 4, 2021.