CALIFORNIA COASTAL COMMISSION
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W12b

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Hearing Date: 12/10/25

STAFF REPORT: APPEAL – DE NOVO

Application No.: **A-5-DPT-24-0005**

Applicant: **Rick and Wendy Watson**

Agent: Paul Beard II

Project Location: 35665 Beach Road, City of Dana Point, Orange County (APN: 691-162-15)

Project Description: Demolition of an 825 sq. ft. single-story single-family residence on a 2,137 sq. ft. beachfront lot and construction of a 2,627 sq. ft., two-story, 35-ft. tall, single-family residence above a 1,025 sq. ft. lower-level garage with a caisson foundation.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The project site is a 2,137 sq. ft. beachfront lot located in Capistrano Beach, located within the City of Dana Point **(Exhibit 1)**. The site is currently developed with a single-story single-family residence. The property extends to the ambulatory mean high tide line (MHTL) from Beach Road, and thus, the City of Dana Point's certified Local Coastal Program (LCP) and the Chapter 3 public access and public recreation policies of the Coastal Act are the standard of review.

The proposed project includes the demolition of an 825 sq. ft. single-story single-family residence and construction of a 2,627 sq. ft., two-story, 35-ft.-tall, single-family residence above a 1,025 sq. ft. lower-level garage (three levels and 3,552 sq. ft. total) (Exhibit 2). The applicants propose a caisson foundation including 14 concrete and steel caissons to elevate the residence and garage above beach grade. No new

shoreline armoring is proposed in association with this project, although there is an existing seawall onsite that was constructed prior to the enactment of the Coastal Act. No development is proposed to the existing seawall. The City's approval allowed the seawall to remain to protect the adjacent structures, however **Special Condition 7(D)** requires the removal of the seawall when any of the following conditions occurs: (1) the adjacent residences are no longer present or where the residences undertake development which would require a CDP; (2) the adjacent structures on neighboring properties no longer need the protection; or (3) the functioning of the armoring has diminished to such an extent that it is no longer serving to protect the adjacent structures.

The subject site is located within the Beach Road (Capistrano Bay) community, an established row of residential development with access to homes obtained solely through the private Beach Road located landward of the subject site. Further landward of Beach Road are railroad tracks, Pacific Coast Highway, and a coastal bluff. The property is vulnerable to coastal hazards and flooding and is part of the Capistrano Bay Community Services District ("District"), a special tax-assessment district that owns and manages Beach Road, and which has recently broadened its authority to include protection of the road from erosion, waves, and rising sea levels.

As part of the de novo review of the coastal development permit (CDP) application, Commission staff analyzed whether the siting and design of the proposed project would be adequate in the face of risks from coastal hazards, as exacerbated by sea level rise. The Dana Point LCP requires new development to be sited within or as close as possible to existing developed areas, where it can be accommodated and adequately served by public services (utilities and infrastructure) without adverse impacts to coastal resources; new development is required to minimize risks to life and property in areas of high geologic and flood hazard without reliance on the construction of protection devices, and new development is required to minimize alteration of natural landforms. To accomplish this, the applicants are proposing to elevate the habitable portions of the structure on caissons above the future base flood elevation (FBFE), which the applicants' consulting engineer estimates at +22 ft. NAVD88. As discussed in the Commission's staff engineer's technical memorandum in **Exhibit 4**, Jeremy Smith, P.E., finds that the proposed elevation of the residence would minimize risks to life and property to the extent feasible, and would thus be consistent with the requirements in the LCP. Additionally, the proposed development would conform with the stringline policies of the LCP, which dictate the allowable seaward extent of the residential structure for development on Beach Road.

The applicants propose to construct a 1,025 sq. ft. enclosed lower-level garage. The garage would be enclosed with breakaway walls and proposed at an elevation of +16.88 ft. NAVD88 which is already at risk of overtopping waves and flooding and will become increasingly at risk as sea levels rise. The Commission's staff engineer's technical memorandum (memo) in **Exhibit 4** specifically recommends against having breakaway walls on the ground floor due to the fact that they can contribute to water quality impacts and adverse effects on the marine environment. The memo notes the proposed breakaway walls are in an area where they could be impacted with less than 1 foot of

wave action, would be subject to repetitive loss, and the garage level is already at risk and will increasingly be at risk of sand breaking through the breakaway panels should it pile up at the wall of the garage, exposing the materials in the garage to the marine environment. The memo notes that the frequency of failure of these breakaway panels will increase with sea level rise, increasing the risk that debris from the breakaway panels and any unsecured material stored in the garage areas (e.g., trash, toxic materials, cleaning supplies) would be mobilized by waves and released into the nearshore marine environment. Not only will the breakaway walls and hazardous materials contaminate the marine environment, they will also create safety hazards if there are any members of the public in and around the nearby public trust lands (seaward of the subject site) at the time that these walls breakaway from the structure. Because there is no existing public access easement here across the dry sand, members of the public seaward of the property would only have lateral access across the wet sand, along the mean high tide line.

Therefore, in order to avoid adverse impacts to water quality and the marine environment, the Commission imposes **Special Condition 1(C)**, which requires that the breakaway panel walls and garage door(s) be removed from the final revised plans and replaced with an open carport. The applicants do not agree with this recommendation and have argued that the LCP requires breakaway walls at the garage level. As explained further in the findings of the staff report, the LCP allows for breakaway walls or an unobstructed ground floor. An open carport meets the intent of having an unobstructed ground floor and is a more appropriate alternative in this location so as to avoid impacts to coastal resources.

In addition to these proposed design changes, further changes to the project are required to ensure that utilities are floodproofed and can adequately withstand coastal hazards, especially in consideration of the fact that many of the utilities could be flooded in the future. **Special Condition 1** requires the applicants to submit final revised plans with these changes.

Even with the design modifications above, staff is concerned that toward the end of the life of the project, Beach Road itself, which is the main street for ingress and egress into and out of the community, will be heavily impacted by coastal hazards such as flooding and erosion, and as sea levels rise, may no longer provide adequate road access to the residences. In addition, municipal services such as sewer, gas, electrical, and water utilities may be frequently inundated with floodwater, leading to corrosion, impairment, and contamination. The Commission must therefore contemplate whether new development should be approved in light of these facts. In this particular case, the proposed development can be conditioned to be consistent with the LCP. Namely, if it is not safe to access or inhabit the residence because the road is consistently flooded or utilities are damaged beyond repair, development should accordingly be removed per **Special Condition 7**.

In addition, as sea levels rise, the MHTL will migrate landward over the life of the development, possibly underneath the residence and all the way to the road. In most of

California's coastal areas, land seaward of the MHTL is owned by the State (or a designated grantee) in public ownership, otherwise known as Public Trust lands. It is important to ensure that the development remains on private land, and not public land, over time, in order to avoid ownership disputes, to maximize public access to and along the sea, and to limit encroachment of private uses on public lands. There is a question as to whether the development would adversely affect public access, public recreation, and the Public Trust lands over its expected life.

Therefore, **Special Condition 7** specifies that in the event that the Public Trust lands boundary migrates landward such that any portion of the approved development encroaches onto Public Trust lands based on a MHTL survey, the applicants shall submit a complete coastal development permit amendment application within 180 days of the subject MHTL survey date to seek authorization to relocate and/or remove the development encroaching on Public Trust lands. **Special Condition 5** requires a current MHTL survey prior-to-issuance of the permit, and periodic MHTL surveys every five years thereafter in order to provide evidence that the development is located on, and remains on, private property.

The shoreline is a dynamic environment, and although the proposed residence has been designed and conditioned to ensure structural stability relative to wave action and forecasted sea level rise to the extent feasible, it is not possible to completely preclude the possibility that conditions onsite could change, and the residence could be subject to greater wave action and tidal events in the future. Because there is no guarantee that the structure would continue to ensure structural stability in the face of increased future wave action, sea level rise, and tidal events, **Special Conditions 6** and **7** would not only ensure that no future shoreline protective device would be constructed onsite to protect the proposed development, but they would also require the landowner(s) to remove the development in certain circumstances.

Because the risk of harm cannot be completely eliminated, the Commission typically requires applicants to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. **Special Condition 8** would ensure that the applicants are aware of, and acknowledge, the nature of the hazards that exist on the site. This condition will also ensure that the applicants are aware of the ambulatory nature of the seaward property boundary, and that this boundary may move with sea level rise. It further ensures that future property owners will be made aware of the risks and limitations placed on the development by this permit, so that any future owners can properly assess risks before purchasing the property.

To avoid creating hazardous conditions or any new long-term adverse impacts on public access and recreation, visual resources, archaeological and tribal cultural resources, water quality, and/or marine birds and wildlife, staff recommends 16 special conditions: **1)** Final Revised Plans, **2)** Local Government Approval, **3)** Resource Agencies Approvals, **4)** Plans Conforming to Geotechnical Recommendations, **5)** Mean High Tide Line (MHTL) Surveys and Monitoring, **6)** Waiver of Rights to Future Shoreline Protective

Devices, **7)** Development Removal, **8)** Hazard Risk and Indemnification, **9)** Public Rights, **10)** View Corridors, **11)** Erosion Control, Drainage, and Polluted Runoff Control Plans, **12)** Construction Responsibilities, **13)** Nesting Bird, Raptor and Bat Monitoring and Avoidance Plan, **14)** Protection of Archaeological and Tribal Cultural Resources, **15)** Participation in the Capistrano Bay District, and **16)** Deed Restriction.

Staff believes that the proposed project, as conditioned, minimizes impacts on coastal resources and is consistent with the Dana Point certified LCP and the Chapter 3 public access and recreation policies of the Coastal Act. Thus, Commission staff recommends that the Commission **APPROVE** coastal development permit application A-5-DPT-24-0005 with 16 special conditions. The motion to carry out the staff recommendation is on page 7.

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EXHIBITS

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. A-5-DPT-24-0005 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 the Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. 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 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 shall 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. **Final Revised Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for review and written approval of the Executive Director, two full-size sets of final plans that have been reviewed and conceptually approved by the City's Planning staff in the Community Development Department. The revised plans shall substantially conform with the Site Development Plan submitted to the Commission, titled "Watson Residence, 35665 Beach Road, Dana Point, CA." by CCH Design Group, Inc., dated January 16, 2023 (as shown in **Exhibit 2**), except that they shall be modified to reflect all of the following:

   A. **Bird Strike Prevention.** Revised architectural plans shall depict the location, design, height and materials of deck railings, fences, screen walls and gates. Deck railing systems, fences, screen walls, windows, and gates shall use materials designed to minimize bird strikes with the deck railings, fences, gates, windows, and doors. Project plans for the proposed development shall comply with bird-safe building standards for façade treatments, landscaping, lighting, and building interiors, as follows:

      i. Acceptable glazing treatments for exterior glass include: fritting, netting, permanent stencils, frosted, non-reflective or angled glass, exterior screens, decorative latticework or grills, physical grids placed on the exterior of glazing, ultraviolet patterns visible to birds, or similar treatments, as approved by the Executive Director.

         1. Where applicable, vertical elements within the treatment pattern should be at least 1/4" wide, at a maximum spacing of 4";
         2. Where applicable, horizontal elements within the treatment pattern should be at least 1/8" wide, at a maximum spacing of two inches 2"; and
         3. No glazing shall have a "Reflectivity Out" coefficient exceeding thirty percent (30%). That is, the fraction of radiant energy that is reflected from glass or glazed surfaces shall not exceed 30%.
         4. Equivalent treatments recommended by a qualified biologist may be used if approved by the Executive Director.

      ii. Trees and other vegetation shall be sited so as to avoid or obscure reflection on building facades;

      iii. Avoid the use of "bird traps" such as glass courtyards, interior atriums, windows installed opposite each other, clear glass walls, and transparent building corners;

      iv. Clear glass, reflective glass, or Plexiglas shall not be installed;

      v. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be

maintained at a minimum in accordance with manufacturer specifications; and

vi. The residence shall be designed with minimal exterior lighting and shall minimize light pollution from interior lighting to the extent feasible to prevent nighttime bird strikes. The permittees shall implement the Lighting Plan required by Subpart (I) below.

B. **Caisson Treatment and Exposure Plan.** The applicants shall submit, for the review and written approval of the Executive Director, a plan to address the potential visual impacts of the proposed caissons on public views from Coast Highway, the California Coastal Trail, the public beach, or other relevant public viewpoints, including in the event that the caissons are exposed as a result of erosion, wave runup, or other circumstances. The plan shall include the following:

i. Acceptable treatment of the caissons shall be limited to mottled texture and limited to colors compatible with the surrounding environment (earth and water tones) including shades of blue, tan, brown and gray with no white or black shades and no stark or bright tones;

ii. The colors, contours, and textures compatible with the surrounding environment shall be maintained in good visual condition throughout the life of the structure;

iii. If any piling is exposed, the Permittees or successors and assigns shall immediately dye and/or treat the exposed pilings such that they will continue to match the surrounding environment; and

iv. Within 60 days of foundation and/or subsurface elements (including but not limited to pilings, grade beams, retaining walls, etc.) becoming exposed, the Permittees or successors and assigns shall submit a CDP amendment application to the Commission identifying measures to eliminate or minimize the exposure while avoiding adverse impacts to shoreline sand supply. Such measures shall be implemented in the time and manner, and subject to the terms and conditions, of the CDP amendment shall it be approved.

C. **Parking.** The final plans relating to the lower-level enclosed garage, as depicted in **Exhibit 2** of this staff report, shall be modified as such:

i. Revised floor plans and elevations showing two covered carports that are visually permeable beneath the finished floor of the elevated caisson-supported residence with unobstructed vertical clearance in accordance with **Special Condition 10**;

ii. Only walls needed for structural support consistent with FEMA standards may be retained at ground level, and neither breakaway panel walls nor garage door(s) shall be constructed. A maximum of two structural (“shear”) walls may be constructed perpendicular to the shore for each

carport. The carport shall not be converted to a garage or other enclosed space at any time;

iii. Storage of unsecured materials (including hazardous materials such as paints, solvents, household chemicals), other than motorized vehicles and car lifts, within the carport shall be prohibited;

iv. The applicants shall submit final revised foundation plans, if necessary, reflecting the open carport and a maximum of two structural walls and any augmentation of the proposed caisson-and-grade-beam foundation system; and

v. The applicants shall submit final revised floor plans for mechanical components or mechanical storage space (such as HVAC systems or battery walls) on floors above the carport level, above the Future Base Flood Elevation (FBFE).

D. **Utility Connections.** All mechanical and utility connections and extensions serving the project shall be installed underground or otherwise mounted on the residential structure consistent with the view corridors in **Special Condition 10**. The final revised plans shall demonstrate and enumerate measures to floodproof utility connections and ensure their functionality in the face of flooding and wave attack. The plans shall also demonstrate how the utility infrastructure will be conveyed to the elevated habitable floor area, via the caissons, structural shear walls, or otherwise. Utility meters and mechanical equipment must be located above the FBFE.

E. **Landscaping.** The applicants shall submit a revised Landscaping Plan that includes at least the following:

i. Any areas disturbed/affected by construction activities in the rear of the site (seaward-facing) and landward of the patio stringline shall be maintained and may be planted for native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent beach areas, all rear yard, beach-fronting landscaping shall consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. Landscaped areas in the front yard (street-facing) area or side yard areas shall consist of native drought tolerant plant species and shall be consistent with **Special Condition 10**;

ii. No plant species listed in any category on the California Invasive Plant Inventory by the California Invasive Plant Council (http://www.cal-ipc.org/), shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: http://ucanr.edu/sites/WUCOLS/files/183514.pdf and http://ucanr.edu/sites/WUCOLS/files/183488.pdf);

iii. No permanent in-ground irrigation systems shall be installed onsite. Temporary above ground irrigation is allowed to establish plantings. Use of reclaimed water for irrigation is encouraged. Any permanent irrigation system shall be low volume (drip, micro jet, etc.) and shall only be permitted on the street facing portion of the lots. Other water conservation measures shall be considered, such as weather-based irrigation controllers; and

iv. All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance.

F. **Lighting.** The applicants shall submit, for the review and approval of the Executive Director, plans to protect the shoreline environment from light generated by the project. The Exterior Lighting Plan shall implement the following restrictions to exterior night lighting that is allowed on the site:

i. All lighting within any future development shall be directed and shielded so that light is directed downward and away from the shoreline environment and view corridors, including public viewing areas such as Coast Highway, the California Coastal Trail, the beach, or other relevant public viewpoints. Furthermore, no skyward-casting lighting shall be used. “Shielded,” as used herein, shall mean that the light rays are directed onto the site, and the light source (e.g., bulb, tube, etc.) is not visible beyond the property boundary of the site of the light source;

ii. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. Lighting shall use bulbs that do not exceed 750 lumens (or 60 watt incandescent equivalent) and maximum color temperature of 2,700 degrees Kelvin, unless a higher wattage or color temperature is authorized by the Executive Director. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness;

iii. No lighting shall produce an illumination level greater than one footcandle (10.76 lumens) beyond the developed portion of the subject property;

iv. The number of light fixtures shall be limited to the minimum necessary for safe vehicular use of the driveway and carport, and to light walkways used for entry and exit to the structure, including parking areas, on the site. No lighting for aesthetic purposes shall be allowed; and

v. Security lighting attached to the structures shall use a control device or automatic switch system with equivalent functions to minimize lighting.

G. **Front Setback.** The residence may include a reduced front yard setback from Beach Road, if approved by the City. Any project revision(s) that includes relocating or expanding the structure to accommodate a reduced front yard setback shall be consistent with all other policies of the certified Local Coastal Program (LCP) including height, off-street parking, and public view corridors.

The Permittees shall undertake development in conformance with the approved final revised plans, unless the Commission amends this permit, the City or Commission approves a new coastal development permit, or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Local Government Approval.** The Permittees agree and acknowledge that the proposed development is subject to the review and approval of the City of Dana Point (City). This action has no effect on terms and conditions imposed by the City pursuant to an authority other than the Coastal Act. The Permittees should comply with all of the conditions attached to the City's approval for entitlements other than the Coastal Development Permit (**Exhibit 3**). In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of Coastal Development Permit No. A-5-DPT-24-0005 shall prevail, and any deviations or conflicts shall be reviewed by the Executive Director to determine whether an amendment to this Coastal Development Permit is required.

3. **Resource Agencies.** The Permittees shall comply with all requirements, requests and mitigation measures from the California State Lands Commission (CSLC), California Department of Fish and Wildlife (CDFW), the Regional Water Quality Control Board (RWQCB), the U.S. Army Corps of Engineers (USACE), and the U.S. Fish and Wildlife Service (USFWS) with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

4. **Plans Conforming to Geotechnical Recommendations.**

   A. PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY, the permittees shall provide to the Executive Director a copy of a Flood Elevation Certificate, prepared by a qualified, registered land surveyor, engineer, or architect, demonstrating that the finished foundation and finished floor elevation of the residence would be compliant with **Special Condition 1(A)** above. The applicants shall inform the Executive Director of any changes to the flood elevation requirements imposed by the City's Building and Safety Division or recommended by the applicants' consultant(s). Such changes shall not be incorporated into the project until the applicants obtain an amendment to this permit or a new Coastal Development Permit, unless the Executive Director determines that no amendment is legally necessary.

   B. BY ACCEPTANCE OF THIS PERMIT, the Permittees agree to comply with the recommendations contained in the submitted coastal engineering and geology, geotechnical, and/or soils reports, including those listed in **Appendix A** (Substantive File Documents) of this staff report. These recommendations, including, but not limited to, recommendations concerning foundations,

construction, grading, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant(s) prior to commencement of development.

C. The final plans required by **Special Condition 1** must be approved by a geotechnical consultant(s), structural engineer, and other licensed professionals to ensure consistency with the conditions of approval in this permit, reviewing the following: the foundation plans, the structural plans, the site plans and architectural plans, landscape and grading plans, drainage plans, exterior lighting plans, plans for utility meters, mechanical rooms, HVAC systems, etc. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant(s) shall require an amendment to this permit or a new Coastal Development Permit, unless the Executive Director determines that no amendment is legally required.

5. Mean High Tide Line (MHTL) Surveys and Monitoring.

A. PRIOR TO ISSUANCE OF THIS PERMIT, the applicants shall submit to the Commission's Executive Director for review and written approval:

i. One printed copy and one digital copy of a new MHTL survey of the subject property subject to the criteria in Subpart (B) below.

ii. A MHTL monitoring plan that includes surveying the MHTL on the subject property at least every five (5) years following the initial MHTL survey required above. The plan shall indicate that each survey will be prepared subject to the criteria in Subpart (B) below and specify that the landowner will submit each 5-year MHTL survey no later than December 31st of each fifth year after the date of receipt, by the Executive Director, of the initial survey required above.

B. The surveys required in Subpart (A) above shall be subject to the following criteria. Such surveys of the subject property shall be based on field data collected within 12 months of the date submitted to the Executive Director, that may include multiple surveys from more than one season in a given survey year, but must include at least one survey during the winter storm season (December – March). Such surveys shall be at the landowner's expense, or if conducted by the Capistrano Bay District ("District"), the landowner shall be responsible for providing such surveys to the Executive Director and ensuring their compliance with the criteria below. The surveys shall be conducted in consultation with and reviewed by the California State Lands Commission (CSLC) staff. Such surveys shall:

i. Use the National Oceanic and Atmospheric Administration published Mean High Water (MHW) tidal datum elevation for the current tidal epoch either from the tide station closest to the project or a linear interpolation between two nearby tide stations, depending on the most appropriate approach in light of tidal regime characteristics.

ii. Use local, published control benchmarks to determine elevations at the survey site. Control benchmarks are the monuments on the ground that have been precisely located and referenced to the local tide stations and vertical datum used to calculate the MHW elevation.

iii. Reference all elevations and contour lines to a clearly identified vertical datum such as the North American Vertical Datum of 1988.

iv. Note survey date, vertical reference datum, and MHW elevation.

C. The landowner shall implement the approved MHTL monitoring plan in accordance with this condition. Any proposed changes to the final approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Waiver of Rights to Future Shoreline Protective Devices. BY ACCEPTANCE OF THIS PERMIT, the Permittees agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-5-DPT-24-0005, including, but not limited to, the single-family residence, foundation, and accessory development, including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, or other coastal hazards in the future, and as may be exacerbated by sea level rise. Thus, by acceptance of this Permit, the Permittees hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable law.

7. Development Removal.

A. BY ACCEPTANCE OF THIS PERMIT, the Permittees further agree, on behalf of themselves and all successors and assigns, that they are required to promptly remove all or a portion of the development authorized by the permit, and restore the site, in accordance with the “Demolition Plan Narrative” dated September 1, 2025 (the “Removal Plan”) if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining any one of the following has occurred:

i. That the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, landslide, sea level rise, elevated groundwater, 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;

ii. Essential services to the site (e.g., utilities, roads) have been disrupted without plan in place to restore them, can no longer feasibly be

maintained, or cannot be safely provided 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 must rely on new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

B. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall promptly remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site in accordance with the Removal Plan. The landowner(s) shall obtain a coastal development permit for removal of approved development and recoverable debris unless the City and/or Coastal Commission, as applicable based on permitting authority, provide(s) a written determination that no coastal development permit is legally required.

C. BY ACCEPTANCE OF THIS PERMIT, the Permittees further agree that this development approval does not permit any of the authorized, private development to ever be located on lands subject to the Public Trust, and any development that comes to be located on such lands due to the movement of the mean high tide line must be promptly removed. In the event that the public trust boundary migrates landward such that any portion of the approved development comes to be located on land impressed with a public trust interest, based on one or more MHTL surveys prepared in compliance with State Lands Commission survey standards (including, but not limited to, a MHTL survey prepared pursuant to **Special Condition 5**), the Permittees and successors in interest shall submit a complete coastal development permit amendment application within 180 days of the subject MHTL survey date to seek authorization to relocate, and/or remove the development encroaching upon the public trust, unless the Executive Director grants additional time in writing for good cause. The permit amendment application shall include a complete evaluation of all feasible alternatives to modify the residential development to ensure that it is located entirely on private property and provides the required minimum setback from the MHTL. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission to evaluate the feasibility of each alternative for addressing shoreline protection, public access, and sensitive resource issues under the Coastal Act and the City of Dana Point certified LCP. Failure to submit a timely permit amendment application and/or remove the development in a timely manner in accordance with a Coastal Act/LCP authorization shall constitute a violation of the terms and conditions of this coastal development permit.

D. Shoreline Protective Device (Seawall) Removal.

i. BY ACCEPTANCE OF THIS PERMIT, the permittee further agrees, on behalf of themselves and all successors and assigns, that they are required to remove/demolish all of the existing shoreline protective device present on the subject site if the Executive Director, 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 removal of the seawall is required due to any of the following:

1. The two immediately adjacent principal residences depending on the existing shoreline protection are no longer present, have been demolished, are uninhabitable, or where a CDP is required under Section 9.69.020; or

2. The two immediately adjacent principal residences depending on the existing shoreline protection no longer need the protection provided by the shoreline protection; or

3. The condition and functioning of the shoreline protection has diminished to such an extent that it is no longer serving to protect the two immediately adjacent principal residences that depend on it.

ii. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Commission's Executive Director for review and written approval a seawall condition monitoring plan that includes surveying the seawall present on the subject property at least every five (5) years following issuance of this permit. The plan shall indicate that each survey will be prepared to evaluate the condition of the seawall subject to the criteria in Subpart (D)(i) above and specify that the landowner will submit each 5-year seawall condition survey no later than December 31st of each fifth year after the date of permit issuance, by the Executive Director. The landowner shall implement the approved seawall condition monitoring plan in accordance with this condition. Any proposed changes to the final approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. Hazard Risk and Indemnification. BY ACCEPTANCE OF THIS PERMIT, the Permittees acknowledge and agree, on behalf of themselves and all successors and assigns: (i) that the site may be in or near a flood-prone low lying area and as such subject to hazards from sea level rise, flooding, shallow groundwater levels, and wave uprush; (ii) to assume the risks to the permittee 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; and (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.

The Permittees further agree, on behalf of themselves and any successors and assigns, that the intent of this permit is to allow for the approved project to be constructed and used consistent with the terms and conditions of this permit for only as long as it remains reasonably safe for occupancy and use without additional substantive measures beyond ordinary repair and/or maintenance to protect it from coastal hazards, and for only as long as the approved project remains on private property and is safely accessible from Beach Road; all documents related to any future marketing and sale of the subject property, including but not limited to marketing materials, sales contracts, deeds, and similar documents shall notify buyers of the terms and conditions of this Coastal Development Permit; and any adverse effects to property caused by the permitted project shall be fully the responsibility of the owner(s) of the property on which the permitted project is located.

9. Public Rights.

A. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The Permittees shall not use this permit as evidence of a waiver of any public rights that may exist on the property now or in the future.

B. This permit does not authorize the development to physically interfere with any public access rights that may exist now or at any future date.

10. View Corridors. BY ACCEPTANCE OF THIS PERMIT, the Permittees agree to maintain, at a minimum, view corridors of no less than three feet, six inches (3'6") on each side of the approved structure, extending the width of the property. Additionally, the Permittees agree to maintain a view corridor beneath the residence (through the carport) and across the property. No portion of any structure shall extend into the view corridors above the elevation of the adjacent street, except for structural members and stairways. Exterior stairways must be designed with open treads to be visually permeable. Visually transparent gates and fences such as plexiglass or open iron gates in the side yards are permitted and the view corridors shall be permanently maintained as visually permeable. Any landscaping in the front, rear, or side yard view corridors shall include only low-growing species not exceeding 42 inches in height such that they will not obscure or block coastal views.

11. Erosion Control, Drainage, and Polluted Runoff Control Plans. BY ACCEPTANCE OF THIS PERMIT, the permittee agrees to prepare erosion control, drainage, and polluted runoff control plans for the management of erosion

and polluted runoff for construction and post-construction phases of the proposed development and undertake development in accordance with the measures therein. The permittee shall prepare the following plans which shall be certified by a California Registered Civil Engineer or Licensed Architect and include the information and measures outlined below.

A. Local Storm Water Pollution Prevention Plan (SWPPP), for the construction phase of the project, shall include at a minimum the following:

   i. Property limits, prior-to-grading contours, and details of terrain and area drainage

   ii. Locations of any buildings or structures on the property where the work is to be performed and the location of any building or structures of adjacent owners that are within 15 ft of the property or that may be affected by the proposed grading operations.

   iii. Locations and cross sections of all proposed temporary and permanent cut-and-fill slopes, retaining structures, buttresses, etc., that will result in an alteration to existing site topography (identify benches, surface/subsurface drainage, etc.)

   iv. Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed.

   v. Elevation of finished contours to be achieved by the grading, proposed drainage channels, and related construction.

   vi. Details for the protection of existing vegetation from damage from construction equipment, for example: (a) grading areas should be minimized to protect vegetation; (b) areas with sensitive or endangered species should be demarcated and fenced off; and (c) native trees that are located close to the construction site should be protected by wrapping trunks with protective materials, avoiding placing fill of any type against the base of trunks, and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees.

   vii. Information on potential flow paths where erosion may occur during construction.

   viii. Proposed erosion and sediment prevention and control best management practices (BMPs), both structural and non-structural, for implementation during construction, such as:

      1. Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method.
      2. Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method.
      3. Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site.
      4. Prevent blowing dust from exposed soils.

ix. Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:

1. Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials.
2. Site washout areas more than fifty feet from a storm drain, open ditch, or surface water and ensure that runoff flows from such activities do not enter receiving water bodies.
3. Provide sanitary facilities for construction workers.
4. Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.

xi. A requirement for the permittee to submit a SWPPP report documenting any incident of water quality violation within 5 working days of the violation occurring, including corresponding corrective actions being taken to resolve the violation.

B. Storm Water Management Plan (SWMP), for the management of post construction storm water and polluted runoff shall at a minimum include the following:

i. Site design and source control BMPs that will be implemented to minimize or prevent post-construction polluted runoff

ii. Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)

iii. Potential flow paths where erosion may occur after construction

iv. Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements

12. Construction Responsibilities.

A. By acceptance of this permit, the permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state, and federal laws applicable to each requirement:

i. 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.

ii. 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. No machinery shall be allowed in the intertidal zone at any time.

iii. 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.

iv. 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.

v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day. All construction debris shall be removed from the beach daily and at the completion of development.

vi. The permittees shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

vii. Debris shall be disposed of at a permitted disposal site or recycled at a permitted 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.

viii. All stockpiles 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. No stockpiling of dirt or construction materials shall occur on the beach.

ix. All grading shall be properly covered and sandbags, ditches, or other BMPs shall be used to prevent runoff and siltation.

x. 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.

xi. The discharge of any hazardous materials into any receiving waters shall be prohibited.

xii. 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.

xiii. 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. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day's work.

xiv. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Construction BMPs shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal 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.

13. Nesting Bird, Raptor, and Bat Monitoring and Avoidance Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit to the Executive Director for review and written approval, a Nesting Bird, Raptor and Bat Monitoring and Avoidance Plan that shall include but not be limited to the following provisions:

A. If project activities must occur during between February 1 through August 31, a qualified biologist, with experience conducting bird and bat surveys, shall survey for active bird nests and bat roosts within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area.

B. If an active raptor nest is located within 500 feet of construction activities, or a bat roost is located within 300 feet of construction activities, the qualified biologist shall halt construction activities to enable the permittee to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting/roosting activities.

C. Noise levels at active nest sites must not exceed 65 dB unless a noise study has determined that ambient noise in the immediate area exceeds that level. If this is the case, noise levels at the nest site must not exceed the ambient noise level measured. Noise reducing BMPs may include using alternative equipment, equipment noise buffering, sound blankets, etc. Alternatively, construction activities and schedules may be adjusted to avoid active nest or roost areas until the respective young birds or bats have fledged.

D. Unrestricted construction activities may resume when no active nests or roosts remain in the construction area.

E. The qualified biological monitor may stop construction at any point if the monitor finds it is necessary to protect nesting raptors and roosting bats. Construction shall not restart until the qualified biological monitor finds the best management practices in place will adequately protect the nesting raptors or roosting bats or until the nesting raptors or roosting bats or their young have left the project site and surrounding buffer.

Results of nesting bird and roosting bat surveys, ambient noise surveys, and any follow-up construction avoidance measures shall be documented in monthly reports by the qualified biologist and submitted to the Executive Director throughout the breeding season.

14. Protection of Archaeological and Tribal Cultural Resources. The permittee shall undertake development in compliance with the following mitigation measures to protect archaeological, including tribal cultural resources:

A. AT LEAST FORTY-FIVE (45) DAYS PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the permittee shall (i) notify in writing, email, and/or phone calls, as necessary, the representatives of Juaneño (Acjachemen)-affiliated Native American Tribes and the Rincon Band of Luiseno Indians listed on an updated Native American Heritage Commission (NAHC) contact list for the area; (ii) invite all affiliated Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (iii) arrange for any invited Tribal representative that requests to monitor and a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. A qualified archaeologist means an individual who meets the Secretary of the Interior's Professional Standards for an Archaeological Principal Investigator and/or is listed as Registered Professional Archaeologist. The archaeological monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended procedures for the inadvertent discovery of archaeological resources and human remains. Evidence of written notification shall be made available to the Executive Director upon request.

B. If an area of archaeological or tribal cultural resources is discovered during ground-disturbing activities, all construction shall cease and shall not recommence except as provided in subsection (D) hereof, and the permittee shall retain a qualified archaeologist and/or a tribal cultural resource specialist(s) qualified to analyze the significance of the find. The specialist(s) shall immediately notify the affiliated Tribes on the NAHC list. The methods of protection of Tribal Cultural Resources shall be developed in consultation with the Juaneño (Acjachemen)-affiliated Native American Tribes and the Rincon Band of Luiseno Indians listed on the NAHC list. If there is disagreement regarding the method(s) of protection of resources, the methods that are most protective of coastal resources shall be selected. Significance testing may be carried out for tribal cultural resource finds only if acceptable to the affected Native American Tribe(s), in accordance with a Significance Testing Plan. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.

C. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and Native American monitor(s) shall notify the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. An "exclusion zone" may be established around the discovery area. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to

Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee shall notify the Coastal Commission's Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.

D. A permittee seeking to recommence construction within an exclusion zone (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (C) above), following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by the project archaeologist in consultation with the Juaneño (Acjachemen)-affiliated Native American Tribes and the Rincon Band of Luiseno Indians listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

15. Participation in the Capistrano Bay District. BY ACCEPTANCE OF THIS PERMIT, the Permittees or successors and assigns shall actively participate in the activities and efforts of the Capistrano Bay Community Services District ("District"), or successor entity, on a fair and equitable basis, to implement sea level rise adaptation efforts, for as long as the development subject to this permit exists.

16. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicant/landowner(s) has 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; and (3) attaching as an exhibit to the deed restriction, the Removal Plan approved by the Executive Director pursuant to

Special Condition 7. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed, and 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, binding successors and assigns of the landowner(s) in perpetuity, 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 a 2,137 sq. ft. beachfront lot located in Capistrano Beach, located within the City of Dana Point **(Exhibit 1)**. The property extends approximately 55 ft. seaward from Beach Road, and the rear property line is ambulatory with the mean high tide line (MHTL). The property is located within the Capistrano Beach Community Association, an established row of ocean-fronting residential development with access to homes obtained solely through the private Beach Road located landward of the subject site. Further landward of Beach Road are railroad tracks, the California Coastal Trail, Pacific Coast Highway, and a coastal bluff supporting additional development.

The subject site is designated as “Residential 0-3.5” in the City’s certified Land Use Element (LUE) of the LUP and “Residential Beach Road 12” in the certified IP, and “Floodplain Overlay District (FP-3)” in the certified LUP of the LCP. The site is also located in the certified LCP “Coastal Overlay District” (California Coastal Zone) and the appeal jurisdiction of the Coastal Commission.

The proposed project includes the demolition of an 825 sq. ft. single-story single-family residence on a 2,137 sq. ft. beachfront lot and construction of a 2,627 sq. ft., two-story, 35-ft.-tall, single-family residence above a 1,025 sq. ft. lower-level garage (three levels and 3,552 sq. ft. total) (**Exhibit 2**). The applicants propose a caisson foundation including 14 concrete and steel caissons to elevate the residence and garage above beach grade. The attached garage would be constructed less than one foot above the elevation of Beach Road, while the residence would be constructed approximately eight feet above the elevation of Beach Road **(Exhibit 2, Page 7)**.[1] The caisson foundation would feature 14 caissons directly underneath the residence.

The City’s Local Coastal Program (LCP) requires that the maximum seaward extent of residential structures and patios within the Residential Beach Road Zoning District be contained by a structure stringline and a patio stringline, respectively. Implementation

[1] As proposed, the finished floor elevation of the lowest habitable floor will be +26.05 ft. NAVD88, and the proposed garage will be at the Beach Road elevation of +16.88 ft NAVD88.

Plan (IP) Section 9.09.040(a)(1) specifically provides that, for 35665 Beach Road, the structure stringline is 50 ft. seaward from the roadside property line along the west property line, and 51 ft. seaward from the roadside property line along the east property line. The patio stringline is 73 ft. seaward from the roadside property line along both the west and east property lines.

The applicants propose a balcony on the first floor of the residence, which would extend approximately 6 ft. beyond the structure but conforms to the patio stringline. In addition, new architectural feature columns on the seaward side of the residence would extend 2 ft. beyond the structure stringline (**Exhibit 2**). There is an existing seawall and staircase that were installed prior to the enactment of the Coastal Act which would protect the structures adjacent to the subject property and do not include any proposed changes.

B. Standard of Review

Section 30604(b) of the Coastal Act states:

> After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

Section 30604(c) of the Coastal Act states:

> Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

Dana Point is a shoreline community in southern Orange County that was incorporated as a city in 1989. The City of Dana Point presently has two groups of documents that, together, serve as its LCP. There is an older set of documents that were originally certified as part of the County of Orange LCP when Dana Point was unincorporated, which were then adopted by the City when it incorporated, and which still apply to the central geographic area of the City. These older documents have generally been referred to as the Dana Point Specific Plan Local Coastal Program or '1986' LCP, which the Commission recertified on September 13, 1989 upon the City's incorporation. In addition, there is a more recent group of documents that includes three elements of the City's General Plan (the Land Use Element (LUE), Urban Design Element (UDE), and Conservation Open Space Element (COSE)), the City's Zoning Code, the Monarch Beach Resort Specific Plan, the Headlands Development Conservation Plan, and the Dana Point Town Center Plan, which apply to those areas of the City that are not covered by the 1986 LCP. These more recent documents are referred to as the '1996

LCP.'[2] At the project site, the applicable documents are the City's certified 1996 LCP, namely the relevant sections of the City's General Plan (referenced in this staff report as the Land Use Plan, or "LUP") and the certified portions of the City's Zoning Code (referenced in this staff report as the Implementation Plan, or "IP").

Pursuant to Section 30604(b) of the Coastal Act, the standard of review for the Coastal Commission's de novo hearing on this project includes the City of Dana Point's certified Local Coastal Program (LCP). Since the project site is located between the first public road and the sea, pursuant to Section 30604(c), the project must also be consistent with the Chapter 3 public access and recreation policies of the Coastal Act.

C. Coastal Hazards

The certified policies of the City of Dana Point LCP are applicable and included, in relevant part, in **Appendix C** due to length.

LUP (LUE) Policy 1.3 requires that land use intensities be made consistent with the capacities of existing and planned public service facilities, and where existing (or planned) public service facilities are constrained, ensuring that residential development does not preclude other land uses of higher priority; LUP (LUE) Policy 2.1 requires consideration of new development's impacts on surrounding land uses and infrastructure; LUP (LUE) Policy 3.1 requires new development to contribute its equitable share of the cost of providing necessary public services and facilities, and; LUP (COSE) Policy 5.1 requires safe and efficient vehicular access to streets to ensure efficient vehicular ingress/egress. IP Chapter 9.35 ensures that all land uses provide safe access to and on the site and that they do not negatively affect the safety, use of, or vehicular circulation within public rights-of-way.

LUE Policy 4.2 requires consideration of natural and manmade hazards in the siting and design of new development; LUE Policy 4.10 requires the regulation of construction of residential construction in coastal areas with high predicted storm wave runup to minimize risk of life and property damage; COSE Policy 2.1 requires placing restrictions on development of floodplain areas, beaches, and potentially hazardous areas; COSE Policy 2.5 requires minimizing beach erosion and natural changes or manmade activities that adversely impact the replenishment of sand to beaches; COSE Policy 2.8 requires minimizing risks to life and property by requiring that siting and clustering of new development be away from unstable slopes and exclusion of beach areas from increasing density potential; COSE Policy 2.9 requires new development to preserve significant natural features and to minimize alteration of natural landforms, including in areas adjacent to beaches; COSE Policy 2.15 requires that all new seaward construction or seaward additions to existing beachfront single family structures assure

[2] However, this is now a misnomer because the three relevant elements of the City's General Plan and the City's Zoning Code (LUP and IP, respectively) were extended to the Capistrano Beach area in 1999 (LCP Amendment No. 1-98), and the Headlands Development Conservation Plan and the Dana Point Town Center Plan were adopted after 1996.

public safety in a manner that, to the maximum extent feasible, does not interfere with public access along the beach, and; COSE Policy 2.16 requires identification of flood hazard areas and appropriate land use regulations in order to minimize risks to life and property, such as requirements for new development in flood-prone areas to elevate the lowest floor (including basement) above the base flood elevation.

IP Section 9.69.070(e) requires that the permitting authority, in this case the Commission on appeal, ensure that the proposed development will minimize alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood hazards. Further, IP Chapter 9.31 (Floodplain Overlay District, otherwise known as the "Floodplain Ordinance") implements the LUP policies referenced above in floodplain overlay districts, including in coastal high hazard areas as designated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM). The entirety of the Beach Road community is designated on the FIRM as "VE," and in the Floodplain Ordinance as "FP-3" (Floodplain Overlay District 3), indicating that this is a coastal area subject to wave action where strict regulations apply to new development to minimize flood hazards and damage, erosion, and unnatural diversion of floodwaters. The Floodplain Ordinance includes several provisions for flood hazard reduction, including elevation of all new construction on adequately anchored and secured pilings or columns such that the lowest floor is elevated to or above the base flood elevation (BFE), ensuring that the space below the lowest floor of new construction remain free of obstruction and not be used for human habitation, floodproofing utilities and avoiding their impairment or floodwater intrusion thereto, and adequate drainage to guide floodwaters around and away from structures. The BFE for new development is determined using, at minimum, FEMA's FIRM data and a site-specific Coastal Floodplain Development Study prepared by the applicant, and where such BFE data has not been provided, then BFE and floodway data from other sources may be utilized; the structure must be certified by a registered professional engineer or surveyor and inspected to verify that it is properly elevated.

Danger from Wave Runup and Erosion

The proposed project is for the construction of a single-family residence above an attached garage, all supported by caissons, on a beachfront lot seaward of the first public road (Coast Highway) in the City of Dana Point. The subject site is within the existing residential Beach Road (Capistrano Bay) community, constrained by neighboring residences on both sides, a private road to the east and the Pacific Ocean to the west. The property is part of the Capistrano Bay Community Services District ("District"), a special tax-assessment district that owns and manages the private Beach Road, and which has recently broadened its authority to include protection of the road from erosion, waves, and rising sea levels.[3]

[3] Resolution No. 9-5-23, September 5, 2023.

The subject beachfront lot is within a coastal high hazard area (as designated by FEMA and the City's certified LCP), and as such, is already subject to coastal hazards, such as wave uprush, flooding, and erosion. This part of the Dana Point coast, Capistrano Beach, is in an acutely erosional state, the cause of which is not well understood but has been attributed to reduced sediment supply, shifts in wave climate, and delayed effects from changes to nearshore wave dynamics from the construction of Dana Point Harbor in the 1970s. Capistrano Beach has experienced an accelerated decades long erosional trend starting in the late 1990s, and beach erosion has been the fastest and most severe at the northern and southern ends of the Beach Road community. Mean high tide line (MHTL) surveys collected by the District and satellite-derived shoreline data suggest this trend has been approximately six feet per year since 2007. Aerial imagery also shows that since 2015, there are intermittent periods where there is effectively no dry beach along Beach Road, and the visible beach is limited to very low tides.

The Commission notes that, historically, the beaches in the area within the Capistrano Bight have been subject to additional wave uprush damage, flooding, and erosion during heightened or extreme storm conditions (e.g., 1982-1983 and 1997-1998 El Niño seasons, the 2022-2023 winter storm season, and Hurricane Hilary in 2023), but also during moderate to large summer southerly swell events that coincide with high tides, such as in the later summers of 2020 and 2021. Due to the geometry and orientation of this coastal stretch, very long-period waves can sometimes propagate inland as large bores, which can overtop and affect low-lying coastal structures.

Some existing residences located along Beach Road are already struggling with these hazards, exemplified by Emergency Permit Nos. G-5-20-0053 (35099 Beach Road) and G-5-21-0037 (35127 Beach Road) for residences located within one mile of the project site. The emergency work in both cases included installation of sand cubes to protect existing single-family residences from wave action and erosion to their foundations and illustrates the need for projects in this area to be designed for safety against shoreline hazards in the present day, let alone in the long-term future. In addition, Commission enforcement staff has identified over 90 cases of unpermitted shoreline armoring seaward of the homes along Beach Road (e.g., seawalls, revetments, riprap, sandbags, berms); many of the unpermitted shoreline protective devices have been installed in response to the beach's particularly severe erosion over the past few years, and these devices in-and-of-themselves can exacerbate erosion through modification of shoreline processes, resulting in even narrower beach widths. Enforcement staff has sent letters to all Beach Road properties in order to notify property owners of unpermitted development that enforcement staff has identified and to outline resolutions of the unpermitted development, including through a community-wide effort to remove unpermitted shoreline armoring and implement an approach to adaptation for residences that is protective of public access. Enforcement staff is continuing to pursue this approach and, in the interim, is considering options to address unpermitted shoreline armoring on a case-by-case basis through individual applications for coastal development.

The elevation of Beach Road is between +13 and +17.5 ft. NAVD88 and thus portions of the road are lower than extreme total water level elevations. Armored development along Beach Road and the current backshore profile with developed homes likely do provide some protection to the road from wave overtopping under the current range of conditions. In addition to the shoreline armoring present along this stretch, the beach currently has a considerable amount of exposed cobble and rip-rap, which is visible in aerial imagery extending back to 2004. During certain periods, the cobble and rip-rap is covered with sand.

The beach width as of January, 2024 was approximately 34 feet from the line of development to the MHTL at the subject site, as surveyed by the Capistrano Bay Community Services District (**Exhibit 6**).[4] With a long-term erosion rate of 4 feet per year and no accelerated sea level rise, the MHTL could reach the line of development (patio stringline) at the site in less than 14 years. Even if the Commission were to estimate a 50% reduction factor in the erosion rate assuming the beach transitions to a cobble-dominated beach, which is generous and likely not representative of real-world declines in erosion rates, the MHTL could reach the line of development (patio stringline) at the site in less than 28 years, which demonstrates that erosion is and will continue to be a serious threat along Beach Road and the subject site in the near- to medium-term.

Thus, ample evidence exists that all beachfront residential development in the Beach Road community is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future, including as exacerbated by sea level rise, which is discussed next.

Sea Level Rise

Sea level rise (SLR) is expected to exacerbate existing coastal hazards by raising mean water levels, extending flood zones inland, and increasing the potential for marine erosion of bluffs and cliffs along the shoreline. SLR will have dramatic impacts on California's coast in the coming decades and is already impacting the coast today.

In California, SLR will result in increased flooding, erosion, and storm impacts to coastal areas. In addition to increased flooding, erosion, and storm impacts, SLR may also lead to groundwater rise, which may result in earlier, more severe, or longer-term hazards, especially for buried infrastructure and areas with shallow water tables such as the subject property.

[4] The Commission notes that the MHW measurement is a snapshot in time, and this beach is known to have a very substantial standard deviation (variation) in the MHW location. Thus, the surveys provided by the District are not necessarily indicative of the typical beach profile.

Currently, the best available science on SLR projections in California is provided in the State of California Sea-Level Rise Guidance Update (OPC 2024) and is reflected in the Draft 2024 Update to the Coastal Commission Sea Level Rise Policy Guidance (CCC 2024). These documents present five SLR scenarios ("low" to "high") for fourteen locations (tide gauges) along the California coast and provide recommendations for which projections to use in various planning contexts based on level of risk aversion and project type. Medium-high risk aversion applications, such as those projects with greater consequences and/or a lower capacity to adapt, like residential and commercial development, should analyze the "Intermediate-High Scenario."

In this case, the proposed project is located at roughly the midway point between the Los Angeles and La Jolla Tidal Gauges, and thus an average of the two tidal gauges yields approximately 3.0 to 4.7 ft. of predicted SLR by the year 2100 under the Intermediate to Intermediate-High scenarios (with upwards of 6.5 ft. under the High Scenario).[5] The range of SLR projections for this site should also be analyzed in combination with a 100-year storm scenario in order to assess the potential range of extreme conditions, shoreline retreat, and beach loss.

Consistent with IP Section 9.31.050, the City required the preparation of a Wave Runup Analysis and Base Flood Elevation Determination for the project, prepared by GeoSoils, Inc., dated October 18, 2021. The Wave Runup Analysis and Base Flood Elevation Determination, which the City relied upon in the local action, analyzed the proposed development in relation to coastal hazards under a 5.6 ft. SLR projection and provided a recommended FBFE. Using 5.6 ft. of SLR and extreme water level and wave conditions, GeoSoils, Inc. estimated a range of wave hazards (wave runup, wave overtopping, and breaking wave crest elevations) and the elevation of a wave overtopping the beach and running across the site was ultimately selected to inform the recommended FBFE of 22 ft., NAVD88. The project plans show the lowest horizontal structural member at or above this elevation with the residence finished floor elevation at +23.5 ft. NAVD88—approximately 1.5 ft. above the FBFE from the referenced wave runup analysis.

The proposed seaward-facing balcony would be elevated above the breaking wave crest elevation at +25.96 ft. NAVD88, and the proposed garage would be at ground level to allow for vehicular entry from Beach Road, at an elevation of +16.88 ft. NAVD88. The City approved the proposal on the basis that it is consistent with the requirement of the City's certified Floodplain Ordinance (IP Chapter 9.31).

At the time of this study, the Commission's 2018 Sea Level Rise Policy Guidance recommended the use of region-specific SLR projections contained in the OPC 2018 SLR Guidance as the best available science. The Commission's 2018 Sea Level Rise

[5] Although many jurisdictions with LCPs specify design lives for certain types of development, the City of Dana Point certified LCP does not assign an appropriate design life for purposes of evaluating hazards for new beachfront development in the Capistrano Beach area. The design life of the subject development should be approximately 75 to 100 years, consistent with the minimum 75-year timeframe used in the applicants' consultant's coastal hazards study and recommended in the Commission's SLR Guidance for new residential development or redevelopment.

Policy Guidance states that the appropriate region-specific SLR projection for the year 2100 for the midway point between Los Angeles and La Jolla (i.e., an average of the two tidal gauges) could be as high as 6.9 ft. under the medium-high risk aversion scenario (and as high as 7.1 ft. for the La Jolla Tidal Gauge, specifically). Therefore, the applicant's 2021 Wave Runup Analysis and Base Flood Elevation Determination and subsequent revisions thereto underestimated SLR projection per the Commission's SLR Guidance at the time.

Current best available science, however, as adopted by the OPC in 2024, estimates up to approximately 4.7 ft SLR by 2100. The difference in SLR projections between the projection used in the original Wave Uprush Study and Coastal Engineering Report for the proposed project (5.6 ft.) and the updated and best available SLR science (up to 4.7 ft.) is less than a foot, which is not significant and would not change the overall conclusions of the analysis about the required finished floor elevation, setbacks, and the safety of the proposed structure from coastal hazard risks and SLR. With the recommendations for engineering design, the applicants' consultant concludes that the residence will be relatively safe from hazards over the proposed 75-year project life.

The Commission's staff coastal engineer, Jeremy Smith, P.E., has reviewed the numerous reports and studies (listed in **Appendix A**) submitted by the applicants' consultants and the City's third-party reviewers, and undertaken a thorough analysis of the site in relation to coastal hazards (see memorandum in **Exhibit 4**). Mr. Smith also reviewed recent scientific literature for the Capistrano Beach area, including but not limited to, the City of Dana Point's Sea Level Rise Vulnerability Assessment and a study conducted by University of California Irvine.[6] In his memorandum, Mr. Smith assesses the baseline coastal hazard conditions at the site and in the region at present; evaluates the potential risks to the proposed development, to the Beach Road community, and to coastal and Public Trust resources in the future, and; makes conclusions and recommendations as necessary to ensure the minimization of risks and the proposed development's adverse impacts to the environment in the face of coastal hazards, as exacerbated by SLR.

First, based on projections of shoreline changes caused by SLR, the MHTL is expected to migrate inland and underneath the proposed residence with as little as 1.8 ft. of SLR, which is within the anticipated project lifespan. While the applicants' consultant estimated a FBFE that considered 5.6 ft. of SLR, Mr. Smith notes that there is considerable uncertainty with regard to precisely estimating future wave hazards. Moreover, Mr. Smith notes that the increased frequency of wave impact to the portions below the FBFE will likely experience relatively accelerated degradation and may require more frequent maintenance or repairs. However, ultimately, Mr. Smith concludes that 22 ft. NAVD88 is a reasonable effort to minimize the risk from flood

[6] Kahl, Daniel T., et al. (2024). *Northern Capistrano Bight Shoreline Dynamics Investigation, Final Report Prepared for the City of Dana Point*. University of California Irvine.

hazards to the proposed residence and its design on pile foundations similarly reduces the proposed structure's risk from erosion.

Beyond the risk to the proposed residence, the residence is also reliant on its access via Beach Road, which itself would be exposed to erosion and flooding well ahead of 5.6 ft. of SLR. Mr. Smith's analysis concludes that Beach Road is expected to be threatened by both coastal erosion and wave-related flooding within the 75-year lifespan typically considered for residential development. One major tipping point could be with three to four feet of sea level rise, when wave overtopping could cause sustained dangerous conditions that make the road impassable during extreme events. The road will likely be threatened by erosion, e.g., through undermining during extreme events, before three feet of sea level rise occurs due to high erosional trends and the dynamic range of the active beach.

Finally, in terms of the potential SLR risks to coastal resources, the applicants are not proposing any new shoreline armoring in connection with the project and are not relying on any existing armoring. This approach is consistent with the requirements in LUP (COSE) Policies 2.5, 2.9, and 2.15, as well as IP Section 9.31.040(d)(3), which in concert prohibit the use of shoreline protective devices for new development.

Project Siting and Regional Issues

The Commission and the City of Dana Point have previously permitted many new residential developments along Beach Road, and the majority of sites along this stretch of 202 homes are developed.

The Commission recognizes that the redevelopment of an existing lot, if sited and designed correctly, typically would not result in significant adverse effects to coastal resources within these existing developed shoreline areas. The area surrounding the subject site is characterized as a substantially developed beach, and in the case of the proposed development, the single-family residence can be sited and designed such that it is within the footprint of an existing developed area.

Nevertheless, Beach Road itself, which is the only street for ingress and egress into and out of the community, will be heavily impacted by coastal hazards such as flooding and erosion in the near- to long-term future, and as sea levels rise, may no longer provide adequate road access to the residences. In addition, municipal services such as sewer, gas, electrical, telephone, and water utilities may be frequently inundated with floodwater, leading to corrosion, impairment, and contamination. LUP (LUE) Policies 1.3, 2.1, and 3.1 require the Commission to consider the impacts of new development on surrounding land uses and infrastructure and ensure that new development contributes its fair share to the provision and maintenance of vital public services. Additionally, LUP (COSE) Policy 5.1 and IP Chapter 9.35 require that residential development maintain safe vehicular access to streets and public rights-of-way. The Commission must therefore contemplate whether new development should be approved in light of these facts. In this particular case, the development can be designed and

conditioned to be consistent with the LCP, including, as discussed below, future removal of the development if it is not safe to access or inhabit the residence because the road is consistently flooded, or if utilities are damaged beyond repair. **Special Condition 7** requires the landowner to remove the development if (1) any government agency has ordered that the structure not be occupied due to coastal hazards, or requires the structure to be removed; (2) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new shoreline protective devices that conflict with LCP or relevant Coastal Act policies. This condition is required to ensure that proposed development accounts for hazards toward the latter end of the project lifespan, at which time the development may no longer be safe, habitable, or serviced by public infrastructure.

In the event that portions of the development fall to the beach before they are removed, **Special Condition 7** requires the applicants or successor(s) in interest to remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a CDP, unless the Commission's Executive Director determines otherwise.

In addition, IP Section 9.31.060(f)(2) requires that all new construction in coastal high hazard areas be located on the landward side of the reach of the mean high tide. The Public Trust boundary may migrate landward from erosion of the shoreline and/or in response to rising sea levels, and it is important to ensure that the development remains on private land over time, in order to remain consistent with LCP requirements and to limit encroachment of private uses on public lands. The Commission thus imposes **Special Condition 7** specifying that in the event that the Public Trust boundary migrates landward such that any portion of the approved development comes to be located on land impressed with a Public Trust interest, based on a MHTL survey (including, but not limited to, a MHTL survey prepared pursuant to **Special Condition 5**), the applicants or successors shall submit a complete CDP amendment application within 180 days of the subject MHTL survey date to seek authorization to relocate and/or remove the development encroaching upon the Public Trust. The Commission notes that, where the MHTL, and therefore Public Trust land, is within close distance to the residential development, IP Section 9.27.030(a)(4)(I) requires a 10-ft. shoreline setback. Therefore, if portions of the development are to be retained, then the applicants or successors must demonstrate that they are located entirely on private property and provide the required minimum setback from the MHTL.

While Mr. Smith recommends consideration of removal of the proposed development in the future per the triggers outlined above, he recognizes that the removal of the development could be challenging. The proposed structure will be constructed on a caisson-and-grade-beam foundation system consisting of 14 30-in.-diameter caissons underlying the principal residential structure. There are no other project alternatives without the reliance on a heavy-duty caisson-and-grade-beam foundation system, and in fact, LUP (COSE) Policy 2.16 and IP Section 9.31.060(f)(1) require the residential structure to be raised on adequately anchored pilings or columns such that the lowest

floor is above the FBFE. The cost of full removal of the piles will thus likely be extremely high. Furthermore, methods for caisson foundation removal are not always able to operate in beach settings with limited access and wave and tidal action. Should the MHTL migrate landward enough to be underneath the structure, wave action will be present at least daily making removal with large equipment challenging and potentially requiring the use of temporary cofferdams or large-scale sand placement to create sufficient working conditions. Mr. Smith notes that there could be alternatives such as partial removal of the caissons to depths below elevations likely to be exposed, which could be somewhat less costly and more practicable.

Thus, to be able to implement **Special Condition 7**, the applicants submitted a removal plan for the development titled "Demolition Plan Narrative" dated September 1, 2025. The removal plan estimates a total cost of $190,700 to $274,000 for removal of the structure and caisson/grade beam foundation at the year 2100 based on a 2% inflation average. The plan also includes phases, timing, and equipment necessary for the removal process. Through submittal of the removal plan, the applicants have addressed how the proposed development, including the caisson-and-grade-beam foundation, would be designed to facilitate relocation and/or removal of the structure and its foundation in the future, if necessary to avoid encroachment onto the Public Trust or to prevent future endangerment of the structure.

During the operable life of the development, the Commission must explore project alternatives that ensure maximum public access and minimize risks from coastal hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views. As a means of controlling seaward encroachment of residential structures on the beach, the Commission could consider siting the proposed development in the most landward feasible location possible. However, as already discussed, additional setbacks from the shoreline at this time would not necessarily minimize the risks from wave attack, wave runup, and overtopping over the course of the project life, since the entire site is relatively low-lying, and with about 3 to 4 ft. of SLR, the entire site could be regularly inundated all the way to the Beach Road street frontage. Rather than minimizing the development's footprint, the Commission finds that, in this case, it is more appropriate to ensure that the development is sufficiently elevated on securely anchored caissons. The Commission therefore agrees with the City that the proposed residential development should be limited to the "stringlines" established in the certified LCP, especially given the prevailing development pattern in the Beach Road community.

Stringlines are typically considered when reviewing development in largely developed beachfront communities. As applied to beachfront development, a stringline limits the seaward extension of a structure, and decks are similarly limited. However, in the case of the Dana Point certified LCP, IP Section 9.09.040(a)(1) sets predetermined structure and patio stringlines for each residential lot along Beach Road. In the case of this project at 35665 Beach Road, the structure stringline is 50 ft. seaward from the roadside property line along the west property line, and 51 ft. seaward from the roadside property line along the east property line. The patio stringline is 73 ft. seaward from the roadside property line along the west and east property lines. The Commission finds that the

development would be consistent with the relevant sections of the Dana Point LCP relative to seaward encroachment.

Project Design

Given that the project site is subject to significant coastal hazards that will only exacerbate with SLR, Mr. Smith makes certain recommendations to ensure that the proposed development would minimize risk and avoid adverse impacts to coastal resources to the greatest extent feasible. These recommendations include specific changes to the design of the project, which are required to be incorporated through revised final plans pursuant to **Special Condition 1**. These changes are summarized below.

Carport

The City's findings in its local approval suggest that inundation of the non-habitable garage may be an acceptable option to avoid impacts to the primary residence (which will be elevated above the garage). In fact, the LCP requires that the garage be designed in this way. If a garage is proposed, then IP Section 9.31.060(f)(3) states that "[a]ll new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls," and Subsection (f)(12) states that "[g]arages may be constructed at the existing beach elevation and below the base flood elevation if they are anchored on pilings or columns and designed with breakaway panel walls" [emphasis added]. Beach Road is at approximately +15-16 ft. NAVD88 elevation, and it is the only accessway for the Capistrano Bay community; by their very nature, garages are to facilitate site ingress and egress and off-street parking of vehicles, and thus in order to take access from the street, the entrance to the garage must be more or less level with the road, at an elevation substantially below the FBFE. Ultimately, the City and its consulting reviewers, Moffatt & Nichol, found it acceptable that wave runup occurring on the eroded beach underneath the residence would flood the garage and Beach Road and exert uplift forces on the structure's foundation, so long as the habitable first floor and above would remain relatively safe from hazards.

As noted in Mr. Smith's memorandum (**Exhibit 4**), there are several concerns with the proposed at-grade garage. First, Mr. Smith notes that the aspects of the structure that are below the FBFE, such as the garage, will experience repeated stresses from wave impact and will likely experience accelerated degradation with the additional effects of abrasion from repeated impact from sand and cobbles and corrosion and spalling from the marine environment. It is likely that major repairs will be needed to the more exposed parts of the structure prior to repairs of the habitable portions that are sufficiently elevated.

IP Section 9.75.020 defines breakaway walls as having "a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot," and further states that "[b]reakaway wall collapse shall result from a water load less than that which would occur during the base flood." These requirements are to

ensure that the walls of the garage would not function like seawalls. While the flood resistance loads were not specified in the applicants' submittal, and it is unclear whether the proposal would conform with the LCP requirements, the applicants' engineering consultant confirmed that the walls parallel to the shore and Beach Road would be constructed with breakaway panels are designed to fail at much lower load conditions than those exerted by wave bores or during base flood conditions. Though the rear (ocean-fronting) breakaway wall would be approximately 12 ft. landward of the seaward line of development, it is very plausible that wave bores could reach the garage, especially as sea levels rise. Mr. Smith estimates that a fast-moving bore from a wave running up or flowing across the project site impacting the breakaway panels could cause failure with depths of less than a foot. Furthermore, with SLR, sand levels towards the back of the lot are expected to increase as the equilibrium beach berm elevation increases to match sea levels; this means that the garage will increasingly be at risk of sand breaking through the breakaway panels as it piles up. Since the frequency of failure of these breakaway panels will increase with SLR, there is an increased risk that debris from the breakaway panels would be mobilized by waves and released into the nearshore marine environment. Depending on how the breakaway panels fail, large chunks or sections could drift and pose hazards to nearby residences or to beachgoers.

The garage may also be used for storage of electrical/mechanical equipment, cleaning chemicals, or other hazardous pollutants. Inundation of the garage could thus result in release of harmful toxins into the marine environment, and/or impacts to water quality and surrounding coastal habitats via the creation of marine debris. Additionally, an enclosed garage could give the property owners a false sense of security, and the storage of automobiles in a confined environment could still give rise to the mobilization of contaminants such as tire particulates, motor oil, gasoline, coolants, etc., all of which would be potentially exposed to wave attack when the breakaway panel walls inevitably fail. In the future, the applicants or successors in interest could seek shoreline armoring to protect the at-grade garage. **Special Condition 6**, however, prohibits the construction of new shoreline protective devices at this site to protect the residence, including the garage. Finally, as discussed in Section IV.E (Visual Resources) of this staff report, the garage would also block public views to the ocean, as opposed to project alternatives that could open up some blue water views underneath the residence, thereby minimizing impacts to coastal views.

As cited above, IP Chapter 9.31 does not mandate the inclusion of a garage; rather, if one is proposed, it must be anchored on pilings and, if enclosed, breakaway panel walls must be used. IP Section 9.35.080(e) also establishes that the required parking for a detached single-family residence with up to 4 bedrooms is 2 covered stalls, and one covered space for every two bedrooms over 4 bedrooms. "Covered stalls" while not defined in the LCP, could include either a garage or a carport, both of which are defined in the LCP. IP Section 9.35.080(e) does not specifically require an enclosed garage, as the applicants insist. The LCP allows for a carport to satisfy the parking requirements of IP Section 9.35.080. There is no reason to interpret the LCP as requiring a garage where a carport otherwise satisfies the parking requirements required by the LCP and also is more protective of coastal resources. The City has confirmed that a carport

would satisfy the LCP requirements.[7] Mr. Smith is not aware of any specific FEMA standards disallowing open carports beneath elevated structures in VE Zones (nor have the applicants pointed to any of these standards), and such a design appears consistent with construction practices in other flood-prone areas of the U.S. and California.[8]

The applicants submitted a letter to Commission staff dated July 25, 2025, objecting to any revisions to the project design, specifically the replacement of the enclosed garage with a carport. The applicants argue that there is no legal nexus for the Commission to require the applicant to revise the project plans to include a carport rather than an enclosed garage, and that the Commission must provide a site-specific analysis to impose such a requirement. Mr. Smith's memorandum (**Exhibit 4**) provides a site-specific analysis of the proposed enclosed garage at this location, which concludes the garage, proposed at an elevation of +16.88 ft NAVD88, is already at risk of overtopping waves and will become increasingly at risk as sea levels rise. For the reasons outlined, the Commission therefore imposes **Special Condition 1(C)**, which requires that the breakaway panel walls and garage door(s) be removed from the final revised plans. Instead, the applicants must submit final revised plans showing a two-stall covered carport beneath the finished floor of the elevated caisson-supported residence with unobstructed vertical clearance and which would allow unobstructed flow below the finished first floor elevation of the residence. The carport shall not be converted to a garage or other enclosed space, and breakaway panel walls shall not be constructed at any time. Hazardous household materials such as paints, solvents, and cleaners/detergents are commonly stored in non-inhabited areas of the residence (such as in a garage, mechanical room, or basement), and since the carport would be subject to flooding in the future, this condition also prohibits the storage of such unsecured and hazardous materials within the open carport to avoid their release into the marine environment.

Special Condition 1 also allows for a reduced front yard setback, which was approved by the City via Variance No. 23-0001 to accommodate the proposed location of the structure and foundation system. The reduced front yard setback may thus prolong the timeframe before which alternative parking arrangements would need to be explored.

[7] The LCP defines a garage as "an enclosed building or structure, or part thereof, used or intended to be used for the parking and storage of motor vehicles," whereas a carport is defined as "a roofed structure providing space for the parking or storage of motor vehicles and enclosed on less than four sides." Therefore, the main difference between the two alternatives is whether the parking area is enclosed on all four sides.

[8] On the Eastern Seaboard and Gulf Coast of the United States, homes in hurricane-prone areas are often constructed on stilts or pilings without any enclosed at-grade spaces such as garages. In California, several flood-prone homes in Stinson Beach (e.g., 21 and 28 Calle Del Onda) have adopted an open carport design.

Utility Connections

The certified LCP requires the proposed development to ensure that utility equipment and connections are resistant to flood damage. Specifically, IP Section 9.31.060(a)(2)(C) states that "[a]ll new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding," and Subsection (b) requires that all new water supply and sanitary sewage systems (including onsite waste disposal systems) be designed to eliminate or minimize infiltration of floodwater, potential discharges, and impairment or contamination during flooding.

Within the Capistrano Bay community, all utilities (e.g., water, sewer, electrical, gas, cable, etc.) are provided by either public or private utility companies. Unlike other coastal areas in the State, such as Malibu, no onsite wastewater treatment systems or septic tanks are needed, as the sewer laterals connect to the South Coast Water District's wider system.

Special Condition 1 requires all mechanical and utility connections and extensions serving the project to be installed underground, or otherwise securely mounted on the residential structure. Since the project, as conditioned, would have an open carport, utility conduits would need to be mounted on or through the caissons and shear walls, as well as on the underside of the first habitable floor (i.e., top of the carport). The applicants are required to demonstrate how the utility infrastructure will be conveyed to the elevated habitable floor area, since it is not exactly clear how the utility connections would be installed in the absence of the enclosed garage and provide revised plans. Additionally, the condition requires the applicants to demonstrate and enumerate various floodproofing measures to ensure the functionality of the utilities in the face of flooding and wave attack.

Special Condition 15 is imposed to ensure that the applicants participate in the maintenance of all adjacent public areas and public utility improvements as required by LUP (LUE) Policy 3.1 to ensure they remain in good condition through the life of the development, including in the face of SLR. Currently, the Capistrano Bay Community Services District is the main entity responsible for undertaking maintenance activities in the Beach Road community, but should circumstances change in the future, the applicants will still be responsible for participation in the upkeep of public areas and utilities in an appropriate manner.

Caisson Foundation

As mentioned, caissons are necessary to provide vertical support for the elevated residence. The proposed foundation system is the minimum necessary to meet building and safety needs. Nonetheless, the development would need to be removed in the future if necessary to avoid encroachment upon Public Trust land and/or future endangerment of the structure. Per **Special Condition 1**, the applicants will need to

demonstrate that the caisson-and-grade beam foundation is designed to facilitate removal and/or relocation of the structure and its foundation in the future.

Prior to removal of the structure, the subsurface portions of the caisson foundation may become exposed due to scour, wave attack, flooding, and erosion. If the pilings become exposed during the life of the structure, there must be appropriate mitigation for the impacts to shoreline processes and visual resources resulting from their exposure. **Special Condition 1** requires the applicants to submit a Caisson Treatment and Exposure Plan prior to issuance of the permit to identify potential measures that would eliminate or minimize the adverse effects of subsurface exposure of the piles on coastal resources.

Coastal Act and LCP Consistency

The Commission finds that the following conditions should be imposed to ensure recognition of, as well as (where possible) adaption to, the various regional community-wide risks to which the site will be subject over its projected lifespan.

Conformance with Requirements

In addition to the Special Conditions described above that are required to address the project's impacts, the Commission finds that numerous conditions imposed by the City to address the development's structural stability and integrity are required to ensure the project's consistency with the City's LCP policies regarding coastal hazards. Thus, **Special Condition 2** requires the applicant to conform with the City's conditions. This Special Condition provides that any deviations or conflicts between the City's conditions of approval and the Coastal Development Permit conditions shall be reviewed by the Executive Director to determine whether an amendment to this CDP is required.

Additionally, the proposed development may inadvertently encroach into coastal waters, both in the long-term as sea levels rise and as the MHTL migrates inland underneath the residence, but also potentially during the construction stage through the use of mechanized equipment on the beach (potentially below the MHTL). **Special Condition 3** is thus required to ensure that the applicants comply with all requirements and mitigation measures that may be required by the California State Lands Commission, U.S. Army Corps of Engineers, Regional Water Quality Control Board, U.S. Fish and Wildlife Service, and California Department of Fish and Game to avoid discharges of dredged or fill materials into open coastal waters and to ensure that the project does not encroach onto Public Trust land. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Finally, to ensure that all recommendations of the applicants' coastal engineering consultant have been incorporated into the proposed development, **Special Condition 4** requires the applicants to agree to comply with the recommendations contained in the submitted coastal engineering and geology, geotechnical, and/or soils reports

(**Appendix A**) and that final plans approved by the consultant shall be in substantial conformance with the final plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultant shall require an amendment to this permit, or a new CDP.

Shoreline Monitoring

Monitoring of the beach along Beach Road is critical for both understanding the migration of the MHTL but also for tracking erosion that could result in greater hazards than considered by this proposal or other future development. The applicants did not submit a formal MHTL survey as part of this de novo application. Thus, the Commission imposes **Special Condition 5** requiring a current MHTL survey prior to issuance of the permit and periodic MHTL surveys every five years thereafter for the life of the structure in order to provide evidence of whether the development is located on, and remains on, private property. The District already undertakes annual MHTL surveys for the whole community (**Exhibit 6**). Thus, this Special Condition allows the District to undertake the surveys. However, the applicants or future landowners would still be responsible for consulting with State Lands Commission staff, for submitting the MHTL surveys (which may use data gathered by the District) to the Commission's Executive Director for review, and for ensuring that the MHTL surveys are conducted per specific survey standards, including the collection of winter season data. Should the District no longer provide this service, the MHTL surveys will be conducted at the applicants' expense.

Assumption of Risk

The subject site, even after completion of the proposed project, will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act and LCP recognize that development, even as designed and constructed to incorporate the recommendations of the applicants' consulting engineer, may still involve risk from coastal hazards. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

In this case, the Commission finds that the development will likely be subject to hazards such as storm waves, surges, coastal flooding, fluvial flooding, groundwater emergence, erosion, and tsunamis, many of which may be exacerbated by SLR. Although the project is conditioned to minimize such risks, because the risk of harm cannot be entirely eliminated, the Commission requires the applicants to waive any claim of liability against the Commission and the City for damage to life or property which 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 8**, will ensure that the applicants are aware of and acknowledge the nature of the hazards that exist on the site, and that may adversely affect the stability or safety of the development it protects, and will effectuate the necessary assumptions of those risks by the applicants and future successors in interest. It will also ensure that the applicants are aware of the

potentially ambulatory nature of their seaward property boundary, and that this boundary may move with SLR.

This condition further ensures that future property owners will be made aware of the risks and limitations placed on the development by this permit, so that any future owners can properly assess risks before purchasing property. In general, disclosing risks to current and future property owners helps ensure that property owners will plan with these hazards in mind and will help set reasonable expectations for future development potential and investments. Similarly, requiring property owners to assume the risks of developing in hazardous locations will help avoid the need to spend public funds on disaster recovery for private development and will ensure future owners are aware of limits on the use of shoreline armoring that harms coastal resources. These conditions help carry out LCP policies related to minimizing risks to life and property in areas of high flood hazard, as well as the mandate to ensure that new development is located in areas able to accommodate it, including over time as conditions change.

Shoreline Armoring

The applicant has stated that the existing seawall armoring present on the project site will not be altered and no development will affect the seawall. It will remain onsite to protect adjacent structures that depend on the wall for protection from coastal hazards. The existing seawall is visible in aerial photography dated 1972, indicating installation prior to the enactment of the Coastal Act. The adjacent structures to the northwest and southeast of the subject site are similarly visible in 1972 aerial photography indicating their installation prior to the enactment of the Coastal Act.

According to the City approvals, the applicants have proposed that the existing armoring be allowed “to remain to protect the adjacent structures,” which involves an implicit acknowledgement that the seawall's presence can only be justified when it serves that function. The City further applied conditions of approval requiring the removal of the seawall. While there is no development proposed affecting the seawall, consistent with that acknowledgment, the Commission imposes **Special Condition 7(D)** requiring the removal of the wall when any of the following conditions occurs: (1) the adjacent residences are no longer present or where the residences undertake development which would require a CDP; (2) the adjacent structures no longer need the protection; or (3) the functioning of the armoring has diminished to such an extent that it is no longer serving to protect the existing structures. The seawall shall be removed if the adjacent structures that depend on its protection no longer require its protection, either because these structures are no longer present or undertake development which would require a CDP, including substantial redevelopment as new structures that are appropriately designed to minimize risks from coastal hazards without reliance on shoreline armoring. Alternatively, the seawall shall be removed if the condition of the seawall has deteriorated to such an extent that it is no longer serving its function of providing protection to the existing adjacent structures. To this end, the applicants are required to submit seawall condition monitoring reports every 5 years for the review of the Executive Director to be able to determine if any of the above criteria for removal have been met.

Future Development

According to the applicants' consulting engineer, construction of the proposed residence upon pilings will mitigate any flooding, erosion or wave hazards that could threaten the residential structure. However, the foundation system would be subject to wave attack under extreme oceanographic conditions, as exacerbated by SLR. There is a history of erosion, flooding, and damage in the Beach Road community which has prompted applications for the repair and construction of protective devices.[9] Furthermore, the shoreline is a dynamic environment and, although the proposed residence has been designed and conditioned to ensure structural stability relative to wave action and forecasted SLR to the extent feasible, it is not possible to completely preclude the possibility that conditions onsite could change and that the residence could be subject to even greater wave action and tidal events in the future than anticipated. Because it is not possible to absolutely ensure that the structure is constructed in a manner adequate to ensure structural stability relative to increased future wave action, SLR, and tidal events, the project site may subject to hazards that could conceivably prompt the applicants or future landowners to seek new shoreline protective devices or measures, which would be inconsistent with the City of Dana Point's LCP policies. As such, **Special Condition 6** ensures that no future shoreline protective devices would at any time be constructed onsite to protect the proposed residence, and the applicants agree to waive any such rights that may exist under applicable law.

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 16**, 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. The deed restriction will also require the recordation of the Demolition Plan Narrative, to provide notice to subsequent owners of the obligation relating to that plan. 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.

Conclusion

In summary, the project, as proposed, will be subject to increasing coastal hazards, including, but not limited to, wave attack, flooding, and erosion, and is not adequately sited or designed to minimize such risks or assure stability and structural integrity. The Commission further finds that, even if adequately designed to withstand coastal hazards in the near- and long-term future, as sea levels rise, the development could become isolated on the beach without adequate connection to road access and utilities, unless

[9] A-5-DPT-01-336 (Bell).

there is a larger regional community resiliency plan for the Beach Road community. Therefore, the Commission finds that conditions of approval are necessary, including removal of the development when the structure becomes endangered or the Public Trust migrates inland and underneath the residence, in order to consider the development consistent with the shoreline development and hazards policies of the certified City of Dana Point LCP. The conditions of approval will also ensure that the project adequately identifies, assesses, and, to the extent feasible, avoids and mitigates the adverse effects of SLR.

D. Public Access and Recreation

As noted above, because the subject application is for development between the sea and the first public road paralleling the sea, the public access and recreation policies of the Coastal Act (Sections 30210-30224) form part of the standard of review for the proposed development. Relevant Coastal Act policies include:

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 30211 of the Coastal Act states:

> Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

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:
>
> (1) Topographic and geologic site characteristics.
>
> (2) The capacity of the site to sustain use and at what level of intensity.
>
> (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.
>
> (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

Section 30220 of the Coastal Act states:

> Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

> Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 of the Coastal Act states:

> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

> Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The most relevant portions of the City of Dana Point LCP for purposes of public access are LUP Policies 2.15 (COSE), 3.11 (LUE), and 3.12 (LUE), and IP Sections 9.09.040(a)(4) and 9.27.030(a). Due to the length of Section 9.27.030(a), these LCP provisions are provided in **Appendix C**, below.

A fundamental goal of the Coastal Act is to “maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone” (Coastal Act Section 30001.5(c)). To achieve this goal, both the Coastal Act and the City’s certified LCP set forth specific policies governing the provision and protection of public access and recreational opportunities. The public access policies of the Coastal Act (Sections 30210-30214), which are referenced in the LCP, prioritize public access to the sea and prohibit development from interfering with the public’s right to access the coast in cases

where such rights were "acquired through use or legislative authorization." (Coastal Act Section 30211). Section 30214 additionally requires that the Chapter 3 public access policies of the Coastal Act be implemented in a manner that accounts for unique topographic site characteristics, the capacity of the site to sustain use, and the need for management of access areas to also protect property-owners' privacy.

In addition, the Dana Point LCP contains several policies to ensure the protection and provision of public access in new development along the shoreline, while balancing public safety needs, private property rights, and the protection of natural resources, where applicable (LUP Policies 2.15 (COSE), 3.11 (LUE), and 3.12 (LUE), and IP Section 9.27.030(a)). IP Section 9.09.040(a)(4) requires offers to dedicate easements for public pedestrian access laterally along the beach at Capistrano Beach as a condition of any new development along Beach Road, consistent with IP Section 9.27.030(a). There are also other LCP policies that limit the use of shoreline protective devices (cited in Section IV.C "Shoreline Development, Coastal Hazards, and Sea Level Rise" of this staff report, above) because such protective devices affect public access.

Finally, the public has rights to use the tidelands that currently lie seaward of the proposed development, but which may be located closer to, or even under, the proposed development at some point in the future. The Commission must ensure that new development does not impair the use of Public Trust resources by, for example, impeding current or future public access thereto. Coastal Act regulations define Public Trust Lands as "all lands subject" to the common law Public Trust and associated with Trust purposes, including recreation.[10] The Public Trust Doctrine has traditionally protected in-water uses such as fishing and navigation under common law, but for several decades, it has been interpreted more broadly to protect other resources, including the environment (See *Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260). The Public Trust also includes the right to swim, boat, hunt, bathe, access, and engage in other forms of water recreation, as well as to use the bottom for anchoring or standing. The State Lands Commission, which administers leases on Public Trust Lands, analyzes the entire area of Public Trust impacts, including impacts on upland recreation.[11] Thus, use of dry land adjacent to Public Trust Lands may not interfere with recreation and other Public Trust uses of the adjacent Public Trust lands. In cases where it is clear that the public's right of access to the sea is "acquired through use or legislative authorization," Coastal Act Section 30211 provides strong protection of such access from interference from development.

The open coastal waters, tidelands, and beach along Beach Road and in the immediate vicinity are frequented by visitors of both local and regional origin, and public access must be protected and maximized. Moreover, throughout California's history, low-

[10] Cal. Code of Regs., title 14, § 13577(f).

[11] See e.g., Section 3.2.4, Public Trust Impact Analysis, Broad Beach Restoration Project Revised Analysis of Impacts to Public Trust Resources and Values, July 2014, including discussion of long-term impacts on recreational use at pp. 3.2-23 to 26. Available at http://www.slc.ca.gov/Info/Reports/Broad_Beach/3.2_Recreation.pdf.

income communities, communities of color, and other historically marginalized populations have faced disproportionate burdens in accessing the California coastline due to geographic, economic, social, and cultural barriers. Section 30604(h) of the Coastal Act states: "when acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state."

The subject site is located within an almost fully developed residential area that was subdivided in the 1920s with no vertical public beach access currently available due to Beach Road being a private road. The closest vertical access points available are Capistrano Beach County Park and Poche Beach, located approximately one mile upcoast and ½-mile downcoast from the project site, respectively. Lateral public access to and along the sandy beach in front of the project site is available by walking along the shoreline from either of these beach entry points. The City indicated in its local CDP findings that these two entryways provide adequate public access to the subject beach. However, it is important to note that generally along Beach Road, only the wet sand areas of the beach (those seaward of the MHTL) are available for the public to use to reach the Public Trust lands seaward of the subject site.

State Lands Commission staff confirmed that the tidelands along the Beach Road area are still managed and held by the State and that the seaward property line for the private residential lots is the ambulatory MHTL.[12]

LCP Requirements

Given the mandate in the Coastal Act to maximize public access to and along the shoreline, the City's certified LCP has several provisions to ensure potential future opportunities to obtain and improve public access to the hard-to-reach beaches in Dana Point. Specifically, IP Section 9.09.040(a)(4) requires offers to dedicate easements for lateral public pedestrian access along the beach at Capistrano Beach as a condition of any new development along Beach Road, consistent with the IP Section 9.27.030(a) requirements of public access[13] unless the development has no adverse effect on public access (per Subsection (a)(3)(A)) or qualifies for an exception (under Subsection (a)(3)(B)).

Per Subsection (a)(3)(A), the City, or the Commission on appeal, cannot impose any new easement requirements if the proposed development will not adversely affect (either individually or cumulatively) the ability of the public to reach and use the public tidelands, or if the access dedication would not alleviate the access burdens identified, or in other words, there is no nexus. Additionally, Subsection (a)(3)(B)(2) provides exceptions to the requirement for a new public access easement if: "a) [p]ublic access is

[12] The subdivision map for Beach Road (Tract 889) confirms that the seaward property line for the residential lots is one and the same as the ambulatory MHTL.

[13] For the remainder of Section IV.D (Public Access and Recreation) of this staff report, references to the IP will be Section 9.27.030(a), unless otherwise specified.

inconsistent with the public safety, military security needs, or protection of fragile coastal resources; or b) [a]dequate access exists nearby."

In its local approval of the appealed project, the City exempted the project from the easement dedication requirements of IP Sections 9.09.040 and 9.27.030 by finding that there is adequate access nearby and that there are no current access burdens in the vicinity that could be alleviated by an access dedication requirement on the proposed development. New projects in the Beach Road community may encroach on public tidelands in the future as sea levels rise, which could deprive the public of rights enjoyed under the Public Trust.

Analysis of Public Access Dedication

Under most current conditions, the public should be able to legally and feasibly reach the tidelands seaward of the site by crossing through tidelands and a patchwork of lateral public access easements on the beach to the east or west. However, there are two primary reasons why this may not be the case. First, Commission enforcement staff has found over 90 cases of unpermitted shoreline armoring (e.g., seawalls, revetments, riprap, sandbags, and berms) that impede the public's ability to freely traverse on the public areas of the beach. Second, oftentimes during high tides, the entry points at Capistrano and Poche Beaches make pedestrian access to and along this stretch of beach difficult if not impossible. Likewise, the parking lot and public access facilities at nearby Capistrano Beach County Park have been under imminent threat due to recent high tide and storm events, and they remain prone to closures until such time that longer-term adaptation planning takes place. Thus, these entry points may therefore become "pinch points" instead, as they no longer would be able to provide safe public access to the beach onsite when the MHTL shifts landward, as the beach erodes and sea levels rise. These entry points are increasingly inundated under higher tidal conditions.

The project site is located within the vicinity of several important open public access and coastal recreation areas and facilities in the region (**Exhibit 1**). Upcoast of the site, the City of Dana Point is home to the Dana Point Preserve (Dana Point Headlands), Dana Point Harbor, Doheny State Beach, and Capistrano Beach County Park. Downcoast of the site, the City of San Clemente hosts Poche Beach and the Marblehead bluff trails. Inland and north of the site, Pines Park offers public views atop the Capistrano Beach bluffs. Public access and recreational opportunities are expected to become increasingly constrained as sea levels rise and several important coastal attractions and facilities become eroded, damaged, or flooded. Further away from the site, in areas such as Salt Creek Beach Park and several San Clemente beaches, beaches have greatly eroded over the past several years due to increasing storm and wave intensity, disrupted sand inputs, and adverse impacts from shoreline armoring.

The proposed project consists of construction of a new single-family residence on a developed lot within an existing private community between the first public road and the sea. The proposed residence would be located within the footprint of an existing single-family residence, therefore the development would not adversely affect public beach

parking, would not significantly affect traffic along public coastal throughfares (since Beach Road, the main access road to the site, is private and gated), and would not induce additional demand for public access (because it is a private use and not visitor-serving). Nevertheless, this project is one of several anticipated new development proposals on Beach Road,[14] and the City has indicated that there may be additional applications for new development in the near future. It is important that the proposed development protect and not interfere with the public's rights to access and recreate on this beach, lest it otherwise set adverse precedent for other nearby development or negatively affect public access and recreation in adjacent local and regional facilities.

New development on beachfront parcels should be designed in a manner that will not require the construction or use of shoreline protective devices. Construction of a shoreline protective device to protect the proposed development would arrest the landward migration of the shoreline, and the corresponding migration of the publicly accessible intertidal zone. This would make access to and along the sea difficult, if not impossible. A federal court has also found that shoreline armoring can constitute trespass on public tidelands if the armoring blocks the migration of the tidelands and prevents the tidelands trustee from gaining property that should rightfully be theirs. (*United States v. Milner* (9th Cir. 583 F.3d 1174, 1189-1190 (2009).)

As previously discussed in detail above in Section IV.C (Shoreline Development, Coastal Hazards, and Sea Level Rise), shoreline armoring or protection devices also directly interfere with public access to tidelands by impeding the ambulatory nature of the MHTL (which, along Capistrano Beach fronting Beach Road, is the boundary between public and private lands) during high tide and severe storm events, and potentially throughout the entire winter season. The impact of a shoreline protective device on public access is most evident on a beach where wave runup and the MHTL are frequently observed in an extreme landward position during storm events and the winter season; the beach in this location is particularly sensitive to the adverse impacts to shoreline processes resulting from shoreline protective devices.

As the shoreline retreats landward due to the natural process of erosion, the boundary between public and private land also retreats landward. Shoreline armoring devices such as rock revetments and seawalls serve to 'fix' a boundary on the beach and prevent any current or future migration of the shoreline and mean high tide line landward, thus eliminating or squeezing the passable distance between the high water mark and low water mark.

While there is an existing shoreline protective device on the site that does impede the inland migration of public trust lands and could in the near future impact public access to the shoreline, the shoreline protection was built prior to the enactment of the Coastal Act, the applicants have stated that the two adjacent residences rely on it, and the applicants are not proposing any development to the seawall and are not proposing to alter it. The City's approval did include conditions for the removal/demolition of the

[14] See A-5-DPT-23-0004 (Seidensticker), A-5-DPT-23-0011 (Vatani), and A-5-DPT-23-0049 (Mohiuddin).

existing seawall but did not include specific details on when the seawall should be removed. In order to clarify the triggers for removal of the existing shoreline protection, **Special Condition 7(D)** requires removal of the wall when any of the following conditions occurs: (1) the adjacent structures are no longer present or where the residences undertake development which would require a CDP; (2) the adjacent structures no longer need the protection; or (3) the functioning of the armoring has diminished to such an extent that it is no longer serving to protect the existing structures.

Further, because the applicant has demonstrated that the proposed structure will not need shoreline protection in the future as sea levels rise, the Commission imposes **Special Condition 6**, which requires the applicants to waive the right to build a new shoreline protective device to protect new development authorized by this CDP. The condition would prohibit the new development from relying on the shoreline protective device present. **Special Conditions 6** and **7** not only ensure that no new future shoreline protective device would be constructed onsite to protect the proposed development, but they also require the landowner(s) to remove the new development (residential structure) if a government agency orders that portions or all of the structures may not be occupied as a result of unsafe conditions. Therefore, as conditioned, the project does not impact public access or recreational opportunities.

Conclusion

The Commission finds that a new public access easement or dedication proposed as part of the project is not required for consistency with the LCP. However, the Commission imposes other conditions and requirements to eliminate or minimize adverse impacts to public access and recreation to and along the coast in connection with the project. Thus, the Commission finds that the proposed project, as conditioned, is consistent with the public access and recreation policies of the certified LCP and the Coastal Act.

E. Visual Resources

The certified Dana Point LCP policies for preservation of scenic and visual qualities of coastal areas are in included in **Appendix C**, due to length.

IP Section 9.69.070(f) requires that new development be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas. In past City and Commission actions pertaining to development along Beach Road, there was consideration of adequate siting and design to protect views of the coast from public vantage points (e.g., public roads, trails and public recreational areas) and to minimize adverse view impacts to and along the coast. The viewshed from the California Coastal Trail (CCT) and Coast Highway, which are located approximately 100 ft. inland of the site, provide expansive views of major scenic resources across Beach Road including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, and coastal bluffs. The public is also afforded

additional views from higher vantage points along the coastal bluffs and trails in Pines Park.

A single-story single-family residence currently exists onsite; however, the project, which proposes to construct a two-story single-family residence above an enclosed garage, could affect the public coastal view opportunities through the site. IP Section 9.05.170 states that in order to protect coastal scenic overlooks from public lands identified in the Conservation/Open Space Element ("COSE"), a detailed view impact study with recommendations on impact avoidance must be prepared and implemented for each project where proposed development might impact significant views. The applicants have submitted a View Impacts Study that shows the residence as proposed with an enclosed garage on the ground level (**Exhibit 5**).

The Commission finds that the mass, bulk, and scale of the proposed project matches the pattern of development of Beach Road homes and the character of the surrounding development. While there may be some reduction in white water views as seen from Pines Park, the overall ocean view from this vantage point will not be impacted, as expansive blue water views are still visible over the structure. With regard to the view from Coast Highway, the applicants assert no additional view impacts or loss of blue water views will occur, given a single-story residence currently exists onsite (**Exhibit 5, Pages 1-2**). However, as can be seen in **Exhibit 5, Pages 3-4**, blue water views are present if viewing the subject site from a vehicle or train. Therefore, the project would result in an additional loss of blue water views, if approved as proposed by the applicants.

The height of the proposed project measures 35-ft.-high from grade at the front of the property adjacent to Beach Road. The Commission finds the project consistent with the height requirements set by IP Sections 9.09.030 and 9.05.110(a) which set the maximum height for Beach Road development at 28 ft. as measured 18 inches above the FP-3 requirement of +22 ft. NAVD88 future BFE for the subject site.[15] The entire structure complies with the +51.5 ft. NAVD88 height limit, with the maximum roof height at +51.5 ft. NAVD88.

In order to maintain some ocean views from Coast Highway, the Commission finds it necessary to require view corridors within the side yard setbacks of residential development in this beachfront area. Coast Highway is a major coastal access route, not only utilized by local residents, but also heavily used by tourists and visitors to access several public beaches located in the surrounding area which are only accessible from Coast Highway. Public views of the ocean and water from Coast Highway have been substantially reduced, or completely blocked, in many areas by the

[15] IP Sections 9.09.030 and 9.05.110(a) require that flooding risk be assessed by establishing the Base Flood Elevation (BFE), which serves as the benchmark for determining minimum building height. To account for the expected 75-year economic life of a structure, and based on past guidance from the Commission, the City has applied projected Future Base Flood Elevation (FBFE) as the standard used to evaluate and set construction height requirements.

construction of single-family residences, privacy walls, fencing, landscaping, and other residential or commercial related development between Coast Highway and the ocean. Per the LCP, the side yard setbacks for this property are to be no less than three feet, six inches (3'6") on each side of the approved structure, extending the width of the property. Cumulatively, imposing a requirement for a view corridor in the side yard on each property along Beach Road would result in a combined 7-foot-wide view corridor between each structure. Moreover, IP Section 9.09.040(a)(2), footnote (G) states that outdoor appliances or permanent deck structures along the side property lines cannot exceed forty-two (42) inches above grade.

Additionally, as previously stated, the proposed increased height of the structure would further reduce blue water views from Coast Highway. Therefore, by requiring the applicants to replace the proposed enclosed garage with an open carport, new blue water views would be created through the carport, which would mitigate view impacts associated with the increased height of the structure. The Commission finds that side yard setbacks, in conjunction with an open carport underneath the residence, would provide adequate view corridors that could provide coastal views from public vantage points at various angles.

To ensure that these view corridors are maintained, the Commission imposes **Special Condition 10**, which details the restrictions and procedures that the applicants must comply with to maintain the view corridors. Permanent fixed structures (with the exception of the shear walls of the carport, caissons, and stairways) visually impermeable fences, and tall vegetation are not allowed within the view corridors. **Special Condition 10** also requires landscaping within the view corridors to be low-growing for the life of the development, not to exceed a maximum of 42-in. in height. The Commission imposes **Special Condition 16**, which requires the applicants to record a deed restriction against the property that provides the current and any future owners with notice of all of the conditions of this permit, including the requirement to maintain the view corridors through the side yards and underneath the residence.

Exposure of the proposed caisson foundation may occur over the 75-year life of the project, and resource impacts arising from pile exposure must be addressed. Such impacts would include impacts to public views, and thus at a minimum, any impacts to public views would need to be addressed. In the event that subsurface portions of the caissons are exposed in the future, **Special Condition 1** requires the applicants to color, screen or cover the exposed caissons and any other exposed foundation features to match the surrounding environment for a natural mottled appearance in order to minimize impacts to public views.

Therefore, the Commission finds that as conditioned to minimize and treat any future exposure of the caissons, attenuate the structures' appearance to be visually compatible with the surrounding natural environment, and create and maintain view corridors across the site towards the ocean, the proposed project will not have a significant adverse impact on visual resources and is consistent with the relevant policies of the City's certified LCP.

F. Marine and Habitat Resources and Water Quality

The certified Dana Point LCP policies protecting marine resources, biological resources, and water quality in coastal areas are included in **Appendix C**, due to length.

Marine Debris

Storage of hazardous chemicals such as household paints and cleaners in the carports could enter the marine environment during flooding events. Mechanical and utility installations such as an electrical panel and water and gas line risers affixed to the carport walls could also be compromised when the property is inundated.

To minimize the potential for marine debris to be generated from the proposed development, the Commission imposes several Special Conditions. First, **Special Condition 1** prohibits the storage of such unsecured and hazardous materials within the open carports to avoid their release into the marine environment.

In the event that portions of the development fall to the beach before they are removed, **Special Condition 7** requires the applicants or successor(s) in interest to remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a CDP, unless the Commission's Executive Director determines otherwise.

Habitat Resources and Wildlife

Neither the City nor the applicants' consulting biologist found the subject site to be a biologically sensitive area, a biotic area, or a marine life refuge area. The Commission's staff ecologist, Dr. Corey Clatterbuck, concurs with the findings which indicate that there is no native, sensitive, or riparian habitat on site and no Environmentally Sensitive Habitat Areas present. The vegetation and residential structure onsite provide marginal suitable habitat for nesting birds, but no nests, or brooding or foraging activities were observed during biological reconnaissance. Although the proposed development is unlikely to degrade existing habitat values at the site, the project could adversely impact marine wildlife and nesting birds during the construction process. Therefore, **Special Condition 13** requires a nesting bird, raptor and bat survey and monitoring/avoidance plan prior to the commencement of construction in order to ensure that the proposed project will not impact nesting birds or roosting bats present on the site.

After the residence is constructed, it is important that aspects of the structure do not have lasting impacts on wildlife and birds nearby. **Special Condition 1** is imposed to require the use of glass that is bird-safe in the design of the exterior of the residence, which is to be maintained through the life of the development, and because the project may generate light which may affect the beach environment during the nighttime, **Special Condition 1** requires the applicants to submit a lighting plan that would adequately protect nearby habitat from light generated by the project.

Special Condition 3 requires the applicants to obtain any necessary authorizations from the California Department of Fish and Wildlife and the U.S. Wildlife and Fish Service to ensure that the proposed development fully complies with all applicable requirements of the biological resource agencies.

Water Quality

The project site is a beachfront parcel located between Pacific Coast Highway and the Pacific Ocean. Construction activities related to the proposed development have the potential to negatively impact the surrounding marine environment. Introduction of waste or construction debris into the marine environment could create deleterious impacts to coastal waters and stem from activities such as stockpiling of materials or cleaning of construction equipment on or adjacent to the beach. In order to ensure that marine resources are maintained, the Commission finds it necessary to require the applicants to include construction best management practices in the project. **Special Condition 12** requires that the project applicants comply with specific construction standards and best management practices for development on or near sandy beach. **Special Condition 12** further requires that no construction materials, debris or waste shall be placed or stored where it may be subject to wave erosion and dispersion, that all debris resulting from construction activities shall be removed from the beach prior to the end of each workday; no machinery or mechanized equipment shall be allowed in the intertidal zone; and all excavated beach sand shall be redeposited on the beach.

In addition, pollutants commonly found in runoff associated with new residential development include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter and organic matter; fertilizers, herbicides, and pesticides from household gardening; nutrients from wastewater discharge, animal waste; and bacteria and pathogens from wastewater discharge. The discharge of these pollutants into coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish fatality and diseases and the alteration of aquatic habitat including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation which provides food and habitat for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

The LCP water quality policies cited in the Appendix are designed to protect water quality and prevent pollution of surface, ground, and ocean waters. Therefore, pursuant to the requirements of the Dana Point LCP, to ensure the proposed project will maintain the biological productivity and the quality of coastal waters, the Commission requires **Special Condition 11**. Erosion control and storm water pollution prevention measures

implemented during construction will, during construction, maintain the biological productivity and the quality of coastal waters. The condition includes measures and BMPs to prevent localized erosion, sedimentation, and pollution of surface and ocean waters from construction and grading activities.

Conclusion

The Commission finds that, as conditioned, the proposed development will not significantly impact marine and biological resources and preserve water quality in the vicinity of the project area. Thus, the proposed development is consistent with the marine resource protection policies of the LCP.

G. Archaeological, Paleontological, and Tribal Cultural Resources

The certified Dana Point LCP policies require the treatment and mitigation of archaeological, paleontological, and tribal cultural resources.

LUP (COSE) Policy 8.1 states:

> Require reasonable mitigation measures where development may affect historical, archaeological or paleontological resources.

LUP (COSE) Policy 8.2 states:

> Retain and protect resources of significant historical, archaeological, or paleontological value for education, visitor-serving, and scientific purposes.

Resources in the Project Area

The area now known as Capistrano Beach/Valley has been home to native populations since time immemorial. The project site is located within the ancestral settlements of Pange and Putuidem, which are considered sacred to numerous Tribes with territorial, ancestral, and/or cultural ties to the area, and ceremonial and cultural activities continue near this site to the present day.[16] No actual archaeological, paleontological, or tribal cultural resource studies have been conducted on the site to date that could have identified cultural resources present onsite, but excavation into the subsurface below the beach deposits and artificial layers of sediment onsite could potentially result in adverse impacts to archaeological, paleontological, and tribal cultural resources.

Tribal Consultation

Commission staff produced a formal notification of the development and request for consultation with potentially affected Tribes on November 4, 2025. The Commission received responses from the Juaneño Band of Mission Indians Acjachemen Nation 84A and the Juaneño Band of Mission Indians Acjachemen Nation - Belardes. Commission

[16] Neely, Ed. (2013). *Those Here First*. Doheny State Beach Foundation.

staff consulted with Tribal representatives from the Juaneño Band of Mission Indians Acjachemen Nation 84A on November 10, 2025 and were made aware of the significance of the project landscape. During the consultation, the representative described the sensitivity of the site and discussed the project scope and potential avoidance or mitigation measures with Commission staff. The concerns raised include ensuring that there is Native American monitoring for any ground disturbance associated with the project, with Native American and archaeological monitors present at the site, as well as a plan in place to stop work in case of inadvertent discovery of sensitive tribal cultural resources. Commission staff received an email from a representative from the Juaneño Band of Mission Indians Acjachemen Nation – Belardes on November 24, 2025 requesting the same avoidance and mitigation measures as required through previous Commission actions on Beach Road projects[17] be imposed on this project.

Resource Treatment and Mitigation

As mentioned, the applicants are proposing pile-driving to install the caisson foundation. Additionally, the site will need to be regraded to accommodate the proposed residence once the existing structure is demolished and removed. While the applicants' proposal does involve ground-disturbing activities, these activities are necessary for the applicants to move forward with their project, and they propose to use the least invasive and environmentally damaging methods available.

Pursuant to **Special Condition 14**, the applicants will be required to invite all representatives of Juaneño (Acjachemen)-affiliated Native American Tribes and the Rincon Band of Luiseno Indians in the area to be present at the site during all excavation activities to monitor the work. The provided guidelines in the condition must be followed if archaeological, paleontological, and/or tribal cultural resources are discovered during the course of the project and/or investigation, and the applicants are required to apply for an amendment if resource deposits are found that the Native American tribal representatives determine must be avoided.

The Commission understands the potential impacts of disturbance of the site to archaeological, paleontological, and tribal cultural resources. However, the Commission also understands that to construct the residence such that it is safe from hazards, it must be constructed on caissons, which would involve some ground disturbance. The proposed project is designed to be the least environmentally damaging alternative to carry out construction without further undermining or destroying the beach and existing landforms. As conditioned, the proposed project is consistent with LCP policies protecting tribal cultural resources, as reasonable mitigation measures are included to ensure that the development will not result in significant adverse impacts to potential archaeological and tribal cultural resources at the site. The Commission acknowledges that tribal concerns remain with respect to this project, and tribal concerns go beyond archaeological resources, and include visual, biological, and other resources that the

[17] See A-5-DPT-22-0037 (Fallahzadeh)

Commission is tasked with protecting pursuant to the certified LCP. Findings relating to the proposed project's potential impacts on such resources are included in other sections of this staff report.

H. California Environmental Quality Act

The City of Dana Point is the lead agency, and the Commission is a responsible agency, for the purposes of the California Environmental Quality Act ("CEQA"). On January 22, 2024, the City of Dana Point, the lead agency for CEQA, determined that the proposed project is categorically exempt from CEQA, finding that the proposed construction of a new single-family residence within a developed area will not have adverse impacts on the environment.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit (CDP) applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that 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)).

The preceding coastal development permit findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact, individual or cumulative, which the proposed event would have on the environment. Therefore, the Commission finds that the proposed development can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Coastal Development Permit Application No. A-5-DPT-24-0005 and associated file documents
- Wave Runup Analysis and Design Flood Elevation Determination, prepared by GeoSoils, Inc. dated October 18, 2021, and associated file documents
- Preliminary Geotechnical Evaluation, prepared by GeoSoils, Inc. dated November 10, 2021; Addendum/Update to Preliminary Geotechnical Evaluation, prepared by GeoSoils, Inc. dated July 1, 2025

APPENDIX B – RELEVANT CERTIFIED LCP POLICIES

Certified IP Section 9.05.160 Cultural and Natural Resources states:

For those projects where the City's environmental review process indicates the potential for significant impacts to cultural and natural resources (such as archaeological, paleontological, or historical resources and biological resources), site-specific studies shall be performed to identify the significance of such resources, and identified mitigation measures designed to reduce those impacts will be incorporated into project design.

Certified IP Section 9.05.170 Coastal Views from Public Areas states:

To protect the coastal scenic overlooks from public lands identified in the General Plan Urban Design and Conservation/Open Space Elements, a detailed view impact study which includes recommendations to avoid impacts to coastal views from public lands shall be prepared and incorporated into projects where the proposed development impacts such views.

Certified IP Section 9.05.220 Lighting states:

Exterior lighting shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity, and height to the use it is serving. Security lighting shall be provided at all entrances/exits.

Certified IP Section 9.05.230 Roof Decks states, in relevant part:

Roof decks are permitted, subject to approval of a Minor Site Development Permit, in any zoning district provided that they meet the following development standards:

> (c) The roof deck shall be architecturally compatible with the existing exterior materials and colors of the existing structure, and appear as an integral part of the roof system.
>
> (d) The roof deck area shall be appropriately designed so as not to be visible from all sides of the structure or from the grade below. Appropriate screening shall be architecturally compatible with and integrated into the existing structure as determined by the Director of Community Development. The solid screening may include roofing, solid parapet walls, or other methods architecturally compatible with the design of the structure.
>
> (e) The deck shall be compatible with the color of the existing roof material or structure, yet it shall not be of a color that would reflect glare onto surrounding properties at a higher elevation.

(f) In residential districts, exterior stairways and other access features such as stairwells or elevators for access to roof decks shall not exceed the residential zoning district's height limit and shall be architecturally integrated into the design of the structure.

(g) All furniture and accessories located on a roof deck shall be secured as necessary to prevent wind damage or dislocation.

Certified IP Section 9.09.040 Special Development Standards states, in relevant part:

(a) Development in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Zoning Districts shall comply with the following standards:

(1) The following Table provides the requirements for structural stringlines, patio stringlines, and front yard setbacks for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts…

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/east property line (a)	Measurement from roadside property line to patio stringline along: west property line/east property line (b)
35665	55	50/51	73/73

…

Footnotes for Section 9.09.040(a)(1):

(a) No enclosed portion of any structure shall extend seaward of a straight line drawn between the structure stringline measurements set forth in this section for the east and west property lines of the subject property.

(b) No patio or unenclosed portion of any structure shall extend seaward of a straight line drawn between the patio stringline measurements set forth in this section for the east and west property lines of the subject property. Where vertical displacement exists between the lowest level patio and sandy beach, a stairway

may encroach seaward of the patio stringline no more than three (3) feet. Where the patio stringline lies inland of an ocean protective device (OPD), an accessway from the lowest level patio to the OPD may be constructed as necessary to link the patio with a stairway to the beach…

(2) Maximum Projections into Required Yards. The following Table provides the requirements for allowable projections into required yards for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

SECTION 9.09.040 (a)(2)

MAXIMUM PROJECTION INTO REQUIRED YARDS

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward of Structure Stringline	Side Yard Area (A)			
(c) Balconies	5’0”	8’0”	NP	6’0”	NP	(E)(F)
(d) Barbecues and Other Appliances	N/A	To patio stringline	To PL	0’0”	N/A	(G)(H)
(h) Decks, Patios and Walks (between Front Yard Setback and Structure Stringline)	N/A	N/A	To PL	0’0”	N/A	Horizontal surface to a maximum height of 18” above FP-3 elevation for the site. (I)(L)(M)

(i) Decks, Patios and Walks (between Structure Stringline and Patio Stringline)	N/A	To patio stringline (Except as provided in Section 9.09.040(a)(1) Footnote (b))	To PL	0'0"	N/A	The surface must be the lower of: 1) 18" above FP-3 elevation for the site; or 2) 30" above the average pregraded/existing elevation at the structure stringline; or 3) 4 feet above Beach Road at the centerline of the site. (I)(L)(M)
(q) Stairways and Stairway Landings	2'6"	NP (Except as provided in Section 9.09.040(a)(1) Footnote (b))	NP	5'0"	NP	(E)

NP = Not Permitted N/A = Not Applicable PL = Property Line

Footnotes for Section 9.09.040(a)(2):

…

(B) In any instance where there is a conflict between the allowable maximum projection and the minimum distance from property line standard, the minimum distance from property line standard shall rule.

…

(E) The total horizontal length of all projections (marked by this footnote) on a given building elevation shall not exceed the maximum percentage of building elevation length as specified below: (Note: Building elevation length is measured at the first floor and not adjusted for multiple storied buildings.)

BUILDING ELEVATION:	Front:	Side:	Rear:
MAXIMUM PERCENTAGE OF BUILDING ELEVATION LENGTH:	60%	40%	80%

The above stated maximum percentages have been established as

a measure to control the overuse or abuse of the projection provisions in this Table. The maximum percentages will help prevent aesthetically inappropriate architectural facades or features that would pose a detriment to adjacent properties. At the discretion of the Director of Community Development, the total length of all projections on a given elevation may be reduced to below the indicated maximums in order to implement this intent.

…

(G) Outdoor appliances or permanent deck structures along side property lines or the rear stringline limit cannot exceed forty-two (42) inches above the lowest patio elevation permitted by Chapter 9.31 “Floodplain Overlay Districts.”

…

(4) Offers to dedicate easements for public pedestrian access laterally along the beach at Capistrano Beach will be required as a condition of any new development project, as defined in public access ordinance (Section 9.27.030(a)(2)(A) of this Zoning Code), requiring a coastal development permit along Beach Road, consistent with the requirements of the public access ordinance (Section 9.27.030(a) of this Zoning Code).

Certified IP Section 9.27.030 Development Standards states, in relevant part [emphasis added]:

(a) Coastal Access.

(1) The purpose of this section is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act; to implement the public access and recreation policies of Chapter 3 of the Coastal Act; and to implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component. In achieving these purposes, the provisions of this subsection shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.

(2) Definitions…

(C) Character of Accessway Use…

2. Passive recreational use. As used in this section, "passive recreational use" refers to the right of the public to conduct

activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.

3. Active recreational use. As used in this section, "active recreational use" refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized…

(3) Applicability.

(A) Access Required. As a condition of approval and prior to issuance of a permit or other authorization for any class of new development as identified in Sections 9.27.030(a)(3)(A)1. through 9.27.030(a)(3)(A)4. below, except as provided in Section 9.27.030(a)(3)(B), an offer to dedicate an easement (or other legal mechanism pursuant to Section 9.27.030(a)(4)(J)2. for one or more of the types of access identified in Sections 9.27.030(a)(2)(D)1. through 9.27.030(a)(2)(D)5. shall be required and shall be supported by findings required by Sections 9.27.030 (a)(5)(A) through 9.27.030(a)(5)(C); provided that no such condition of approval for coastal access shall be imposed if the analysis required by Sections 9.27.030(a)(5)(A)1. through 9.27.030(a)(5)(A)4. establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified….

2. New development between the nearest public roadway and the sea.

3. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization…

(B) Exceptions. Section 9.27.030(a)(3)(A) above shall apply to all new development except in the following instances:

1. Projects excepted from the definition of "new development" in Section 9.27.020(a)(2).

2. Where findings required by Sections 9.27.030(a)(5)(A)

and 9.27.030(a)(5)(B) establish any of the following:

a. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources; or

b. Adequate access exists nearby…

(4) Standards for Application of Access Conditions. The public access required pursuant to Section 9.27.030(a)(3)(A) shall conform to the standards and requirements set forth in Section 9.27.030(a)(4) herein.

(A) Lateral Public Access (Minimum Requirements).

1. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.

2. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222 and the policies of the certified land use plan, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). Lateral access shall be legally described as required in Section 9.27.030(a)(4)(G).

(B) Vertical Public Access (Minimum Requirements)…

3. Each vertical accessway shall extend from the road to the shoreline (or bluff edge) and shall be legally described as

required in Section 9.27.030(a)(4)(G). The access easement shall be a minimum of 10 feet wide. If a residential structure is proposed, the accessway should not be sited closer than 10 feet (or another distance if specified in the certified land use plan) to the structure….

(G) Legal Description of an Accessway (Recordation).

1. An access dedication required pursuant to Section 9.27.030(a)(3)(A) shall be described in the condition of approval of the permit in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows:

a. for lateral access: along the entire width of the property from the mean high tide line to (as applicable): the toe of the bluff, the toe of the seawall, or other appropriate boundary such as structural and patio stringlines as described in Section 9.09.040(a)(1) of this Zoning Code (the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD) Zoning Districts)…

2. Prior to the issuance of the coastal development permit, the landowner shall execute and record a document in a form and content acceptable to the Director of Community Development, consistent with provisions of Section 9.27.030(a)(6), irrevocably offering to dedicate to a public agency, non-profit organization, or private association approved by the Coastal Commission an easement for a specific type of access as described in Section 9.27.030(a)(2)(D) and a specific character of use as described in Section 9.27.030(a)(2)(E), as applicable to the particular condition.

3. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.

4. The recorded document shall include legal descriptions of both the applicants' entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission

[or local agency authorized by the Commission] determines may affect the interest being conveyed. The offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording…

(I) Privacy Buffers (Minimum Requirements). Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distance specified in the certified LUP amendment, or where there is no distance specified, no closer than 10 feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation…

(5) Required Findings And Supporting Analysis For Public Access Dedications.

(A) Required Overall Findings. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development) and of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 9.27.030(a)(5)(B). The type of affected public access and recreation opportunities shall be clearly described.

2. An analysis based on applicable factors identified in Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.

3. A description of the legitimate governmental interest furthered by any access condition required.

4. An explanation of how imposition of a public access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent.

(B) Required Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(B)1. through 9.27.030(a)(5)(B)4. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:

1. Project Effects On Demand For Access And Recreation:

a. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development.

b. Analysis of the project's effects upon existing public access and recreation opportunities.

c. Analysis of the project's cumulative effects upon the use and capacity of the identified public access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout.

d. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public.

e. Analysis of the contribution of the project's cumulative effects to any such projected increase.

f. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas.

g. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities.

2. Shoreline Processes (for accessways on sites subject to wave action, such as beachfront and coastal blufftop accessways):

a. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site.

b. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development.

c. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity.

d. Analysis of the effect of any identified changes of the project-alone or in combination with other anticipated changes - will have upon the ability of the public to use public tidelands and shoreline recreation areas.

e. The rate of blufftop erosion due to wave action as the base of the bluff….

3. Physical Obstructions: Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.

4. Other Adverse Impacts On Access And Recreation.

a. Description of the development's physical proximity and relationship to the shoreline and any public recreation area.

b. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation.

c. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development…

Certified IP Section 9.31.040 Prohibited Uses and Structures states, in relevant part:

The following uses and structures are specifically prohibited in the Floodplain Overlay Districts:…

(d) FP-3 District only:…

(3) Seawalls, revetments, and shoreline ocean protective devices or construction that alters natural shoreline processes, unless required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and only when positioned, designed and constructed to eliminate adverse impacts on local shoreline sand supply as provided for in Section 9.27.030(f) of this Zoning Code. Seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline processes shall only be permitted as a last resort protective device for coastal areas. Shoreline protective devices need not be subject to the elevation requirements of the FP-3 district.

Certified IP Section 9.31.050 Administration states, in relevant part:

(a) Site Development Permit Required. A Site Development Permit according to Chapter 9.71 of this Code shall be obtained before construction or development begins within any area of special flood hazards, areas of flood-related erosion hazards, or areas of mudslide (i.e., mudflow) hazards established in or pursuant to Section 9.31.020. Application for a Site Development Permit shall be made on forms furnished by the Director of Community Development and may include, but not be limited to:

(1) Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing and proposed structures; structure occupancy, topography, landscape and hardscape, drainage and utility facilities, and the storage of materials;

(2) A certificate from a registered civil engineer stating that the information in the application is correct;

(3) Proposed elevation in relation to mean sea level of the lowest floor including the basement of all structures; in Zone AO, AE, or VE, V, and V1 through V30, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;

(4) Proposed elevation in relation to mean sea level to which any structure will be floodproofed;

(5) All appropriate certifications listed in Section 9.31.050 of this Chapter;

(6) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

(7) A statement that the standards in Section 9.31.060 have been satisfied.

(b) Director of Community Development. The Director of Community Development is hereby appointed to administer and implement this Chapter by granting or denying Site Development Permits in accordance with this Code. Appeals are covered in Section 9.31.070(a). The duties and responsibilities of the Director of Community Development shall include, but not be limited to:

(1) Permit Review. Review all development permits to determine that:

(A) The permit requirements of this Chapter have been satisfied;

(B) All other required State and Federal permits have been obtained;

(C) The site is reasonably safe from flooding;

(D) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, “adversely affects” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development which will not increase the water surface elevation of the base flood more than one (1) foot at any point.

(E) For the FP-3 District, the development satisfies the design criteria of the Coastal Floodplain Development Study.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 9.31.020, the Director of Community Development shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer this Chapter. Any such information shall first be submitted to the City Council for adoption…

(4) Maintain Certifications. Obtain and maintain for public inspection and make available as needed:

(A) The certification required in Section 9.31.060(a)(3)(A) (floor elevations);

(B) The certification required in Section 9.31.060(a)(3)(B) (elevations in areas of shallow flooding);

(C) The certification required in Section 9.31.060(a)(3)(C)3 (elevation or floodproofing of non-residential structures);

(D) The certification required in Section 9.31.060(a)(3)(D) or 9.31.060 (a)(3)(D)2 (wet floodproofing standard);

(E) The certified elevation required in Section 9.31.060(c)(2) (subdivision standards);

(F) The certification required in Section 9.31.060 (e)(1) (floodway encroachments); and

(G) The information required in Section 9.31.060(f)(6) (coastal high hazard construction standards).

(5) Interpretations. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards, areas of flood-related erosion hazards, or areas of mudslide (i.e., mudflow) hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. Any person contesting such interpretation may appeal as provided in Section 9.31.070.

(6) Remedy Violations. Take action to remedy violations of this Chapter as specified in Section 9.31.020 (c) herein.

(7) Act on Site Development Permits. Approve, conditionally approve, or deny Site Development Permits…

Certified IP Section 9.31.060 Provisions for Flood Hazard Reduction states, in relevant part:

(a) Standards of Construction. In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(A) All new constructions and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the

structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy…

(2) Constructions Materials and Methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(D) Within Zones A, AH, AO, AE, or VE, adequate drainage paths around structures on slopes shall be installed to guide flood waters around and wary from proposed structures.

(3) Elevation and Floodproofing.

(A) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in Section 9.31.060(a)(3)(C). Upon the completion of the structure of the elevation of the lowest floor, including basement, such structure shall be certified by a registered professional engineer or surveyor and verified by the City Building Inspector to be properly elevated. Such certification shall be provided to the Director of Community Development…

(D) New construction and substantial improvements of any structure with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. Either a minimum of two openings having a total net area of not less than one (1) square inch for every square foot enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screen louvers, valves, or other

coverings or devices provided that they permit the automatic entry and exit of floodwaters; or

2. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration…

(b) Standards for Utilities.

(1) All new and replacement water supply and sanitary sewage systems shall be designed to eliminate or minimize infiltration of flood water into the system and discharge from systems into flood waters.

(2) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding…

(f) Coastal High Hazard Areas. Within coastal high hazard areas established in Section 9.31.020(b), the following standards shall apply:

(1) All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor excluding the pilings or columns is elevated to or above the base flood elevation.

(2) All new construction shall be located on the landward side of the reach of mean high tide.

(3) All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.

(4) Fill shall not be used for structural support of structures or decks.

(5) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

(6) The Director of Community Development shall obtain and maintain the following records:

(A) Certification by a registered engineer or architect that the proposed structure complies with Section 9.31.060(f)(1).

(B) The elevation (relation to mean sea level) of the bottom of the lowest structural member of the lower floor (excluding pilings or columns) of all new and substantially improved structures and whether such structures contain a basement.

(7) Satisfy the design criteria of the Coastal Floodplain Development Study and provide the required wave calculations prepared by a qualified registered Civil Engineer experienced in coastal engineering.

(8) Decks shall be constructed to meet the following criteria:

(A) Wood and raised concrete decks shall be constructed and adequately anchored on caissons or piles installed below the scour elevation and shall be designed by a structural Civil Engineer to withstand the forces of breaking waves and uplift forces to the satisfaction of the Building Official.

(B) Concrete decks constructed on existing ground do not require caissons or pile systems.

(C) All decks shall be designed to allow wave run-up to go over and under the deck without obstructions.

(9) Accessories, such as awnings, patio covers, or trellises, shall be adequately anchored and constructed on caisson or pile footing installed below the scour elevation.

(10) Spas shall be constructed to allow wave run-up under the spa without obstructions. Swimming pools and spas located below the base flood elevation are prohibited.

(11) The standards for seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline processes are contained in Section 9.31.040(d)(3) and in Section 9.27.030(f)

(12) Garages may be constructed at the existing beach elevation and below the base flood elevation if they are anchored on pilings or columns and designed with breakaway panel walls. Subterranean garages are prohibited…

(h) Flood-Related Erosion-Prone Areas.

(1) The Director of Community Development shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the City.

(2) Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonable safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.

(3) If a proposed construction or development is found to be in the path of flood-related erosion or would increase the erosion hazard, such

construction or development shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard…

Certified IP Section 9.35.080 Minimum Number of Required Parking Stalls states, in relevant part:

(e) Minimum Number of Required Stalls by Use. The minimum amount of parking provided for each use in a project shall be in accordance with the following ratios…

Residential Uses	
Use	**Required Number of Stalls**
(12) Single-family, detached:	
up to 4 bedrooms	2 covered stalls
over 4 bedrooms and more	2 covered stalls + 1 covered for every two bedrooms over 4 bedrooms

…

Certified IP Section 9.69.070 Basis for Action on Coastal Development Permit Applications states, in relevant part [emphasis added]:

(a) Approvals of Coastal Development Permits. In order for a Coastal Development Permit to be approved, all the following findings must be made, in writing, in addition to the findings required to approve other applications being considered concurrently:

(1) That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).

(2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).

(3) That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096).

(b) Denials of Coastal Development Permits. In order for a Coastal Development

Permit to be denied, all the following findings must be made, in writing, in addition to the findings required to deny other applications being considered concurrently:

(1) That the proposed development is not in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).

(2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is not in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).

(c) Additional findings for public access are found in Section 9.27.030(a) of the Zoning Code.

(d) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.

(e) That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.

(f) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas.

(g) That the proposed development will conform with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs.

Certified IP Section 9.75.020 “C” Definitions and Illustrations states, in relevant part:

Carport — a roofed structure providing space for the parking or storage of motor vehicles and enclosed on less than four sides…

Covered Parking — a parking stall(s) within a carport or completely under the overhanging portion of a building…

Certified IP Section 9.75.020 “G” Definitions and Illustrations states, in relevant part:

Garage — an enclosed building or structure, or part thereof, used or intended to be used for the parking and storage of motor vehicles…

Certified LUP (COSE) Policies, in relevant part:

Policy 1.7: Maintain and, where feasible, restore the biological productivity and the quality of coastal waters, creeks, and groundwater, appropriate to maintain optimum populations of marine organisms and to protect human health. Measures including, but not limited to, minimizing the adverse effects of waste water discharges, controlling runoff, preventing the depletion of ground water supplies, preventing substantial interference with surface water flow, maintaining vegetation buffer areas protecting riparian habitats, minimizing alteration of natural streams, and street sweeping, shall be encouraged. (Coastal Act/30231)

Policy 1.8: Coordinate with the appropriate Regional Water Quality Control Board, the County of Orange and other agencies and organizations in the implementation of the National Pollution Discharge Elimination System Permits (NPDES) regulations to minimize adverse impacts on the quality of coastal waters.

Policy 2.1: Place restrictions on the development of floodplain areas, beaches, sea cliffs, ecologically sensitive areas and potentially hazardous areas. (Coastal Act/30235, 30236, 30240, 30253)

Policy 2.2: Site and architectural design shall respond to the natural landform whenever possible to minimize grading and visual impact. (Coastal Act/30250)

Policy 2.3: Control erosion during and following construction through proper grading techniques, vegetation replanting, and the installation of proper drainage, and erosion control improvements. (Coastal Act/30243)

Policy 2.4: Require the practice of proper soil management techniques to reduce erosion, sedimentation, and other soil-related problems. (Coastal Act/30243)

Policy 2.5: Lessen beach erosion by minimizing any natural changes or man-caused activities which would reduce the replenishment of sand to the beaches. (Coastal Act/30235)

Policy 2.6: Encourage public acquisition of significant land resources for open space when funds or opportunities are available. (Coastal Act/30240)

Policy 2.8: Minimize risks to life and property, and preserve the natural environment, by siting and clustering new development away from areas which have physical constraints associated with steep topography and unstable slopes; and where such areas are designated as Open space or include bluffs, beaches, or wetlands, exclude such areas from the calculation of net acreage available for determining development intensity or density potential. (Coastal Act/30233, 30253)

Policy 2.9: Preserve significant natural features as part of new development. Permitted development shall be sited and designed to minimize the alteration of natural landforms. Improvements adjacent to beaches shall protect existing

natural features and be carefully integrated with landforms. (Coastal Act/30240, 30250, 30251, 30253)

Policy 2.15: Assure that public safety is provided for in all new seaward construction or seaward additions to existing beachfront single family structures in a manner that does not interfere, to the maximum extent feasible, with public access along the beach. (Coastal Act/30210-212, 30214, 30253)

Policy 2.16: Identify flood hazard areas and provide appropriate land use regulations, such as but not limited to the requirement that new development shall have the lowest floor, including basement, elevated to or above the base flood elevation, for areas subject to flooding in order to minimize risks to life and property. (Coastal Act/30235, 30253)

Policy 2.20: The biological productivity and quality of coastal waters, streams, wetlands, estuaries, and lakes and the restoration of optimum populations of marine organisms shall be ensured by, among other means, minimizing adverse effects of waste water discharges. Any specific plans and/or planned development district policies and specific development proposals, site plans and subdivision maps shall control runoff, prevent depletion of ground water supplies and substantial interference with surface water flow, encourage waste water reclamation, maintain natural vegetation buffer areas that protect riparian habitats, and minimize alteration of natural streams. (Coastal Act/30231).

Policy 3.2: Require development proposals in areas expected to contain important plant and animal communities and environmentally sensitive habitat areas, such as but not limited to marine refuge areas, riparian areas, wildlife movement corridors, wetlands, and significant tree stands, to include biological assessments and identify affected habitats. (Coastal Act/30230, 30240)

Policy 3.3: Encourage retention of natural vegetation and require revegetation of graded areas.

Policy 5.1: Design safe and efficient vehicular access to streets to ensure efficient vehicular ingress and egress. (Coastal Act/30252)

Policy 6.8: Preserve public access to the coastal areas through easement dedications thereby providing marine-oriented recreational uses so that transportation corridors may augment the City's open space system. (Coastal Act/30210, 30211, 30212)

Policy 7.3: Preserve public and private open space lands for active and passive recreational opportunities. (Coastal Act/30213)

Certified LUP (LUE) Policies, in relevant part:

Policy 1.3: Assure that land use intensities are consistent with capacities of existing and planned public service facilities. Where existing or planned public

works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development. (Coastal Act/30250, 30254)

Policy 2.1: Consider the impacts on surrounding land uses and infrastructure when reviewing proposals for new development. (Coastal Act/30250)

Policy 3.1: Require new development to contribute its share of the cost of providing necessary public services and facilities through equitable development fees and exactions. (Coastal Act/30250)

Policy 3.11: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. (Coastal Act/30211)

Policy 3.12: Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, or where adequate access exists nearby, including access as identified on Figures UD-2 and COS-4. (Coastal Act/30212)

Policy 4.2: Consider the constraints of natural and man-made hazards in determining the location, type and intensities of new development. (Coastal Act/30240, 30253)

Policy 4.4: Preserve, maintain, enhance, and where feasible restore marine resource areas and coastal waters. Special protection shall be given to areas and species of special biological or economic significance. Sustain and where feasible restore general water quality and biological productivity as necessary to maintain optimum populations of marine organisms and for the protection of human health. (Coastal Act/30230)

Policy 4.10: Regulate the construction of non-recreational uses on coastal stretches with high predicted storm wave run-up to minimize risk of life and property damage. (Coastal Act/30253)