

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: October 10, 2007
49th Day: November 28, 2007
180th Day: April 7, 2008
Staff: Gabriel Buhr-LB
Staff Report: October 17, 2007
Hearing Date: November 14-16, 2007
Commission Action:

W7f**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NUMBER: 5-07-335

APPLICANT: Pui Wah and Doris Yu

AGENT: Elizabeth Srouer

PROJECT LOCATION: 820 The Strand, City of Hermosa Beach (Los Angeles County)

DESCRIPTION: Demolition of an existing five-unit apartment building and construction of a 3,437 square foot, 30 foot-high, two-story over basement level, single-family residence with an attached two-car garage on a 2,394 square-foot R-2 zoned beachfront lot.

Lot Area	2,394 square feet
Building Coverage	1,538 square feet
Pavement Coverage	396 square feet
Landscape Coverage	460 square feet
Parking Spaces	3
Zoning	R-2
Planning Designation	Medium Density Residential
Ht above final grade	30 feet

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing demolition of an existing five unit apartment building and construction of a new beach fronting single-family residence. The major issue with this beachfront development is that it could be affected by wave attack and flooding during strong storm events.

Commission staff is recommending **APPROVAL** of the proposed project with **Five (5) Special Conditions** regarding: **1)** assumption of risk; **2)** no future shoreline protective device; **3)** additional approvals for any future development; **4)** conformance with the submitted drainage and run-off control plan; **5)** a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS: Coastal Hazard and Wave Runup Study, 820 The Strand, Hermosa Beach, CA prepared by GeoSoils Inc. dated August, 2007.

LOCAL APPROVALS RECEIVED: City of Hermosa Beach Approval-in-Concept dated August 28, 2007.

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Site Plan
 4. Elevations
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STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application:

MOTION: *I move that the Commission approve coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a 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 policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent,

acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. No Future Shoreline Protective Device

- A. By acceptance of this Permit, the applicant agrees, on behalf of itself 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. 5-07-335 including, but not limited to, the residences, garages, foundations, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

- B. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the residences, garages, foundations, and any other future improvements if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Future Development

- A. This permit is only for the development described in coastal development permit No. 5-07-335. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by the coastal development permit No. 5-07-335. Accordingly, any future improvements to the structure authorized by this permit, shall require an amendment to Permit No. 5-07-335 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. Drainage and Run-Off Control Plan

- A. The applicant shall conform to the drainage and run-off control plan received on September 26, 2007 showing roof drainage and runoff from all impervious areas directed to vegetated/landscaped areas wherever possible. Additional surface run-off will be directed to an infiltration basin and porous rain tank system with attached sump pump for overflow removal to the public storm drain system.
- B. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Deed Restriction

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner 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. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The subject site is located at 820 The Strand, within the City of Hermosa Beach, Los Angeles County (Exhibit #1). The site is a relatively level beachfront lot located between the first public road and the sea. This 2,394 square foot lot is located on the inland side of The Strand, an improved public right-of way that separates the residential development from the public beach (Exhibit #2). The Strand is used by both residents and visitors for recreational purposes (walking, jogging, biking, etc.) and to access the shoreline. It extends for approximately 4 miles, from 45th Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). The proposed project is located within an existing urban residential area, located approximately ¼ mile south of the Hermosa Beach Pier. There is an approximately 350-foot wide sandy beach between the subject property and the mean high tide line. Vertical public access to this beach is available to pedestrians via public right-of-way at the western end of 9th Street to the north, and at the western end of 8th Street located south of the subject site (Exhibit #2).

The applicant is proposing demolition of an existing five-unit apartment building and construction of a new 3,437 square-foot, 30 foot-high, two-story over basement level, single-family residence. On-site parking for the proposed single family residence will be provided with a 448 square-foot, attached two-car garage and one open guest parking spaces, with vehicular access from Beach Drive (Exhibits #3 & #4). The applicant proposes to construct the residence and guest parking spaces on a 2,394 square-foot, R-2 zoned lot in Hermosa Beach.

The existing structure is a non-conforming, five-unit apartment building that was originally built over 60 years ago. The Certified LUP for the City of Hermosa Beach designates the subject site

as Medium Density Residential with a maximum development of 25 dwelling units/acre. This designation equates to required 1,750 square feet per dwelling unit on each lot. The small 2,394 square foot lot does not have the sufficient lot size to support the existing development. The building is out of code in a number of different areas including parking, setbacks, and open space requirements. The apartment building has insufficient parking on-site to accommodate the present five units. The existing apartment building only provides two on-site parking places; the certified LUP requires 12 parking spaces for a development with five residential units. The deficit of 10 parking spaces could impact available public street parking and therefore impede beach access for the public.

Nevertheless, multi-family rental units are potential affordable housing resources. The City of Hermosa Beach fulfills its affordable housing requirements, as detailed in the City's Housing Element, through the maintenance of two mobile home parks located within the City limits but outside of the Coastal Zone. The apartments on the subject site are not considered affordable housing by the City of Hermosa Beach.

The City has reviewed the proposed project and found it consistent with local zoning requirements, as evidenced by their Approval-In-Concept, dated August 28, 2007. The proposed project conforms to the proposed LUP 30-foot height limit for R-2 zoned, medium density residential, and conforms to the setback limits for front, rear and side yards. The required front yard setback is equal to at least 5 feet and the rear yard setback is no less than 3 feet. The required side yard setback is 10 percent of lot width and no greater than 5 feet. For the residence, the applicant proposes a 5 foot front yard setback (lot depth is approximately 80 feet), a 3 foot rear yard setback and a 3 foot side yard setback (lot width is approximately 30 feet). Grading for the proposed project would consist of 334 cubic yards of cut to accommodate the basement level. Removed soil will be disposed of at an inland commercial dump site in Redondo Beach.

The applicant is proposing water quality improvements as part of the proposed project, consisting of rooftop and surface drainage directed to permeable areas. Additional surface run-off will be directed to an infiltration basin and system of porous rain tanks with attached sump pump for overflow removal to the public storm drain system. Any vegetated landscaped areas located on site shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

The placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (<http://www.CNPS.org/>) in their publications.

Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

The applicant provided a Coastal Hazard and Wave Runup Study for the subject property, as is consistently required by the Commission for shoreline development in southern Los Angeles

County and Orange County. The Wave Runup Study was prepared by GeoSoils Inc. and is dated August 2007. The analysis concludes that coastal hazards, including shoreline erosion, wave and wave runup attack, and coastal flooding, will not significantly impact this property over the life of the proposed structure. Further, there are no recommendations necessary for wave runup protection.

B. Hazards

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. Community Character/Visual Quality

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with Chapter 3 policies of the Coastal Act.

D. Public Access/Parking

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and infiltration basin with attached sump pump, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections

30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The Commission conditionally certified the City of Hermosa Beach Land Use Plan on August 19, 1981. The Land Use Plan (LUP) was effectively certified with suggested modifications on April 21, 1982. The modifications were accepted and the LUP is certified. The City submitted a final draft of its zoning and implementation ordinances (LIP) and a revision to their LUP in 2000. The amendment and Implementation ordinance was scheduled for public hearing and Commission action at the October 8, 2001 meeting, but the City withdrew. Therefore, these have not been certified and the standard of review for development in Hermosa Beach is still the Coastal Act.

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

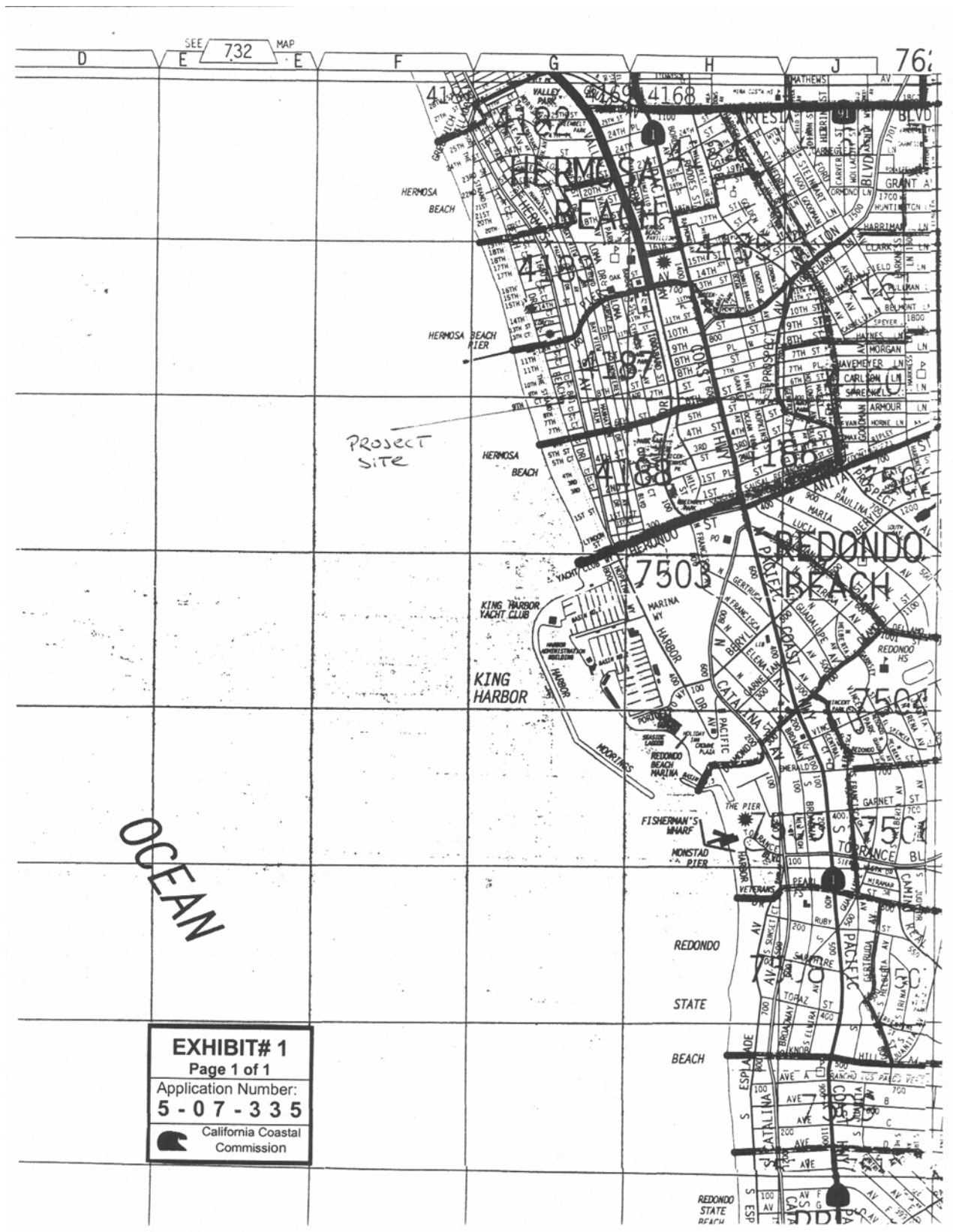
H. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned

to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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THE ASSESSMENT OF UNITS IN THE FOLLOWING AIRSPACE PLANS, INCLUDES ALL RIGHTS AND INTERESTS IN THE COMMON AREAS AS SET FORTH IN DEEDS OF RECORD. EACH PLAN DEPICTS APPROXIMATE DIMENSIONS FROM WHICH AREAS ARE COMPUTED. AREAS ARE FOR CORRESPONDING ELEMENTS ONLY.

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