

CALIFORNIA COASTAL COMMISSION

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Th10g

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-17-1005

Applicant: 1830 The Strand-JA, LLC

Agent: Srour and Associates

Location: 1830 The Strand, Hermosa Beach, Los Angeles County
 (APN: 4183008005)

Project Description: Demolish 2,850 sq. ft. duplex and construct a 30-ft. high, 3-story, 3,666 sq. ft., single-family residence with attached 2-car garage and one guest parking space adjacent to garage on a 2,409 sq. ft. lot. Drought tolerant landscaping is included with the project. Drainage plans include use of area drains and onsite drainage system to direct roof and surface runoff to the storm drain along Beach Drive, as well as use of landscaped yards and permeable pavers to absorb additional runoff.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant requests a permit to demolish a duplex and construct a new single-family residence on a beachfront lot. The primary Coastal Act issues raised by the subject development are: 1) beachfront development that could be subject to natural hazards such as wave attack and flooding; 2) shoreline protection; 3) public right-of-way encroachments; and 4) water quality.

The proposed project involves the replacement of an existing duplex (a legal non-conforming use) with a single-family residence in an area where the Commission has approved fourteen such similar types of development between 2005 and the present. The subject site is designated as Limited Multiple-Family Residential (R-2B) in its Zoning Code, which allows a maximum

development of one unit per 1,750 square feet. The subject property has a lot size of 2,409 square feet, which allows only one unit on the property by the City's current zoning regulations. While the zoning code is not the Commission's standard of review for the project, the fact that the zoning code only allows one lot supports the Commission's approval that the project would not reduce housing density since only one unit is permitted on the property per the City's zoning regulations.

Although the subject lot is too small to provide a second unit, the subject site is located in a dense, residentially-zoned area where numerous residential opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within ½ a mile of the subject property. In addition, the public beach is located adjacent to the public walkway fronting the subject site. Therefore, the project is located in an area that can accommodate it and will not have cumulative adverse impacts to coastal resources. In addition, the location of the subject site within these nearby amenities minimizes vehicle miles traveled and energy consumption.

The city of Hermosa Beach examines any Coastal Zone development that entails demolition or conversion of residential units that are not categorically exempt from the California Environmental Quality Act (CEQA) as required under the California Government Code (§65588(d) pursuant to Section 65590 (The Mello Act)). The Mello Act is a statewide law which seeks to preserve housing for persons and families with low and moderate incomes in the Coastal Zone. The City of Hermosa Beach determined that the Mello act does not apply to any the proposed development under Government Code Section 65590(b)(3). This section states that cities with less than 50 aggregate acres of vacant, privately-owned, residentially zoned land are not subject to the affordable dwelling unit replacement requirement. According to the City's 2014 Existing Conditions Report in its General Plan, the City of Hermosa Beach contained 33 vacant parcels totaling 2.6 acres of land. Only a portion of these parcels are residentially zoned. Therefore, the City determined that the Mello Act requirements are not applicable to the subject property.

The proposed project is located in an area where coastal hazards exist and can adversely impact the development. Therefore, the Commission imposes **Special Condition No. 1**, requiring the applicant to assume the potential risk of injury and damage arising from coastal hazards that may threaten the development.

No shoreline protective device is proposed to protect the development pursuant to this permit. Because shoreline protective devices typically harm coastal resource, including sand supply, public access, coastal views, beach dynamics, and natural landforms, the Commission imposes **Special Condition No. 2**, which requires the applicant to acknowledge that, as new development, the project is not entitled to shoreline protection, and to waive any right to a shoreline protective device that may exist under applicable law.

During construction and post construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, as a result, two special conditions address and minimize impacts to water quality and marine resources as follows: **Special Condition No. 3** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris; and **Special Condition No. 4** imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

The project site has an approximately 185 square-foot portion of the patio and a 42 inch wall that currently encroaches 6 feet 2 inches into the public right-of-way at the seaward side of the property.

The encroachment area is under a separate lease agreement, and is subject to review, approval, and revocation by the City of Hermosa Beach Public Works Department. The applicant is proposing to add landscaping and to re-stucco the existing 42” wall in the encroachment area. With sea-level rise or an increased use of the Strand, the City may require a widening of the public walkway, and further require that the applicant and all successors/assigns remove the encroachment in order to accommodate the change to the Strand. To ensure that the applicant maintains its encroachment permit with the City, which is revocable by the City of Hermosa Beach Public Works Department, the Commission imposes **Special Conditions 5 and 6** regarding the applicant’s rights and obligations related to the encroachment. The Commission also imposes **Special Condition 7**, requiring the applicant to maintain a 5 foot setback from the property line on the ground level, and a 3 foot setback on upper levels. This setback requirement is consistent with past Commission action in the area and the Hermosa Beach zoning requirements. It also ensures that an adequate buffer exists between the Strand and the private residence in the event that the Strand is located landward due to erosion or wave uprush events.

Any potential changes to the proposed project may result in adverse impacts to coastal resources. To ensure that development on the site does not occur which could potentially result in adverse impacts to coastal processes, the Commission imposes **Special Condition No. 8**, which informs the applicant that future development at the site requires an amendment to Coastal Development Permit No. 5-17-1005 or a new coastal development permit.

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 9** 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.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

[Exhibit No. 1 – Vicinity Map and Project Location](#)

[Exhibit No. 2 – Project Plans](#)

[Exhibit No. 3 – Mello Act Determination](#)

[Exhibit No. 4 – Site Photos](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-17-1005 pursuant to the staff recommendations.*

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 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:

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided 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:

This permit is granted subject to the following special conditions:

1. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea-level rise, erosion 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. Waiver of Rights to Future Shoreline Protective Device. By acceptance of this permit, the applicant acknowledges that this project constitutes new development under the Coastal Act, and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the applicant hereby waives any rights to construct such devices that may exist under applicable law. The applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage, foundations, permitted encroachments, and patio if (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust boundary; (d) removal is required pursuant to LCP policies for sea-level rise adaptation planning; or (e) the development would require a shoreline protective device that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP to prevent a-d above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) 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. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. The permittee shall comply with the following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;

- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

4. Water Quality, Drainage and Landscaping Plans.

A. The applicant shall conform to the drainage and run-off control plan received on December 4, 2017, showing that roof and surface runoff will be captured with area drains and an on-site drainage system that ultimately directs to an existing storm drain main along Beach Drive. 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, the California Exotic Pest Plant Council, 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. The applicant shall incorporate Best Management Practices (BMPs) into the construction and post-construction phases of the subject development. The applicant has also stated that they shall also comply with the applicable water efficiency and conservation measures of the City's adopted CALGreen standards concerning irrigation systems, and efficient fixtures and appliances.

B. The permittee shall undertake development in accordance with the approved final landscaping and drainage 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 legally required.

5. Encroachments

A. An approximately 185 square-foot patio, which extends approximately 6 feet, 2 inches into the public right-of-way, for approximately 30 feet along the width of the seaward property line, is the only development allowed by this Coastal Development Permit (5-17-1005) in the City of Hermosa Beach Oceanfront Encroachment Area at 1830 The Strand, as shown in [Exhibit 2](#). Any development in the Oceanfront public right-of-way, including additional improvements, repairs, and maintenance, cannot occur without an amendment to this coastal development permit or a new coastal development permit from the Coastal Commission, unless the Executive Director determines through written confirmation that no amendment or new permit is legally required.

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit evidence, for the review and approval of the Executive Director that the applicant has made the initial payment to the City's public access impact mitigation program (i.e. annual payment to City for encroachment.) The applicant and all other successors and assigns shall remain enrolled in the City's public access impact mitigation program (i.e. annual payment to City for encroachment) and make the recurring annual payment so long as the encroachment remains in place.

6. City's Right to Revoke Encroachment Permit. Approval of this coastal development permit shall not restrict the City's right and ability to revoke, without cause, the approved City encroachment permit in order to construct public access and recreation improvements within the public right-of-way.

7. Minimum Seaward Setbacks. The rear (seaward) setback of the structure shall not be less than 5 feet from the property line on the ground floor, and no less than 3 feet from the property line on the second and third floors. This shall apply to all habitable areas, non-habitable areas, and foundation of the structure except for ground level patios.

8. Future Development. This permit only authorizes the development described in Coastal Development Permit No. 5-17-1005. The exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to any improvements to the development approved by Permit No. 5-17-1005. Accordingly, any future improvements to the structure authorized by this permit shall require an amendment to Permit No. 5-17-1005 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. Deed Restriction. **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval

documentation demonstrating that the applicant 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:

A. PROJECT DESCRIPTION AND LOCATION

The applicant is proposing to demolish a 2,850 square-foot duplex and construct a 30-foot high, three-story, 3,666 square-foot single-family residence with a ground-level patio and a 379 square-foot, two-car garage (**Exhibit 2**). The site is located in a Limited Multiple-Family Residential (R-2B) zone, which restricts structure height to 30 feet, and the proposed single-family residence adheres to this designation and is consistent with past Commission permit actions. Some landscaping is proposed utilizing native or non-native, non-invasive, and drought tolerant plants. Proposed grading includes 192 cubic yards of cut and 11 cubic yards of fill.

The subject site is a residential lot located at 1830 The Strand in the City of Hermosa Beach, Los Angeles County (**Exhibit 1**). The site is a beachfront lot located within a developed urban residential area approximately 0.3 miles north of the Hermosa Beach Pier, between the first public road and the sea. The lot size is approximately 2,400 square feet in an area located on the inland side of The Strand – an improved 20 foot wide public right-of-way that separates the residential development from the public beach. The Strand is used by both residents and visitors for recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. The Strand 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 nearest vertical public access to the beach is available via the public right-of-way at the western end of 19th Street, located approximately 82 feet north of the site.

A majority of The Strand is developed with single-family and multi-family residences ranging in size from 2,400 square feet to 3,700 square feet. The residences in the immediate area surrounding the project site are 2-story and 3-story, 30 foot-high structures (**Exhibit 4**). The proposed 30 foot-high, 3,666 square foot single-family residence is of a similar mass and scale to other properties in the project vicinity. Therefore, the proposed project is compatible with the community character of the area.

The project includes a system to manage and increase on-site percolation of runoff, including area drains and an onsite drainage system, which directs runoff flow to a storm drain located on Beach Avenue. In addition, landscaped areas along a portion of the north side yard and the full length

of the Strand-adjacent yard will work to capture storm runoff. Best management practices will also be incorporated throughout the course of construction. To ensure that the project conforms to the drainage and run-off control plan received on December 4, 2017, the Commission imposes **Special Condition 1**.

B. HAZARDS

Section 30253 of the Coastal Act states, in pertinent part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The project site is located on an oceanfront lot, and is therefore vulnerable to erosion, flooding, wave runup, and storm hazards. These hazard risks are exacerbated by sea-level rise that is expected to occur over the coming decades. In this geographic area, the main concerns raised by beach fronting development are impacts to public access and recreation, and whether hazardous conditions might eventually lead to a request to build a shoreline protection device to protect the proposed development.

The Coastal Act discourages shoreline protection devices because they generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. As a sandy beach erodes, the shoreline will generally migrate landward toward the structure, resulting in a reduction and/or loss of public beach area with no increase of the landward extent of the beach. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines, which narrows the beach area available for public access. Shoreline protective devices also result in a progressive loss of sand because shore material is not available to nourish the nearshore sand bar. The lack of an effective sand bar can allow such high wave energy on the shoreline that materials may be lost offshore, where it is no longer available to nourish the beach. This also affects public access through a loss of beach area. Shoreline protection devices such as revetments, seawalls, and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. Such a protective structure is often placed on public land rather than on the private property it is intended to protect, resulting in a physical loss of beach area formerly available to the general public. In general, shoreline protection devices are not attractive, can detract from a natural beach experience, and adversely impact public views. Shoreline protective devices, by their very nature, tend to conflict with various LCP and Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically prohibits development that could “...create [or] contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.” However, Section 30235 of the Coastal Act recognizes that *existing* development may be protected by shoreline protective devices subject to certain conditions. This limitation is particularly important when considering new development, such as in this case, because if it is known that a new development may need shoreline protection in the future, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act. Therefore, the Commission’s action on this project must consider the effects of wave uprush, flooding, and storm events (with sea-level rise considerations) on public access and recreation.

Sea-level Rise

Sea-level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea-level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea-level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea-level from space indicate an average global rate of sea-level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.¹ Recent observations of sea-level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea-levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea-level rise to expect over this century and to anticipate the likely impacts of such sea-level rise. In 2013, the Ocean Protection Council (OPC) adopted the National Research Council (NRC) report, “Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past Present and Future”, as best available science for the State of California, and recommended in its 2013 State Sea-Level Rise Guidance that state agencies and others use these projections in their planning processes (the Coastal Commission also adopted the NRC report as best available science its 2015 Sea-level Rise Policy Guidance). Two subsequent OPC reports have updated the best available science, including the *Rising Seas in California: An Update on Sea-Level Rise Science*, released in April 2017 by a working group of OPC’s Science Advisory team, and the *State of California Sea Level-Rise Guidance: 2018 Update*. The OPC’s most recent projections in its statewide sea-level rise guidance is that in this area sea levels may rise between 1.8 and 5.3 feet by the year 2090, though there is a risk of much more significant sea-level rise depending on various uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea-level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the “business as usual” scenario (and data suggests temperatures and sea-level rise are

¹ <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

tracking along the higher projections), OPC and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

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

On the California coast, the effect of a rise in sea-level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm impacts to coastal areas. On a relatively flat beach, with a slope of 40:1, a simple geometric model of the coast indicated that every centimeter of sea-level rise will result in a 40 cm landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a seawall, an increase in sea-level will increase the inundation of the structure. More of the structure will be inundated or underwater than is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently. Accompanying this rise in sea-level will be an increase in wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea-level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

The City of Hermosa Beach completed an initial sea-level rise vulnerability assessment in 2014.² The report indicates that the City's shoreline is highly vulnerable to change due to the very soft substrate (sand dunes) that were built upon, and the reduced influx of sediment to the littoral cell. The report also indicates that Hermosa Beach has gained significant beach width due to past sand replenishment projects, including replenishment needed to protect Los Angeles' Hyperion Sewage Treatment Plant, and that the structures protecting King Harbor in Redondo Beach, just to the south, serve as a sediment trap that benefits Hermosa's beach area. The report concludes on page 18 that:

To the extent future coastal erosion increases as a result of sea-level rise and related changes in sediment dynamics, and if future beach replenishment is not maintained, Hermosa Beach should expect a reduction of the protective beach buffer in front of the city. As a result, future flooding and storm surge could have a more destructive and farther-inland reaching impact than if the beach remains stable. In the absence of having

² Ekstrom, J, Moser, S. Vulnerability and Adaptation to Sea Level Rise: An Assessment for the City of Hermosa Beach, September 2014.

[such] a detailed engineering study, the estimates of inland flooding under the higher sea-level rise scenario used here thus may not fully capture the extent of potential risks to the city.

In addition, in addressing the impacts of shoreline protection, the report states on page 61:

... Given the currently human-made wide beach, the question of additional shoreline protection has not been a priority issue in Hermosa Beach. However, virtually the entire shoreline is fronted by the Strand – the bike- and walkway that marks the hardened boundary between the beach and residential/commercial development of the city proper. The Strand serves effectively as a low seawall along the full length of the city, set back from the shoreline and fronted by the beach. If beach erosion were to continue unabated as a result of accelerated sea-level rise, it would eventually lead to a situation where the water's edge would be at the base of the Strand seawall. Missing the beach buffer, the waves – particularly storm waves – would eventually undercut the seawall and damage the Strand.

Therefore, there is a high degree of uncertainty regarding future impacts of sea-level rise within the City and at the project site, which is adjacent to the Strand, not only caused by the uncertainty of global sea-level rise projections, but also by uncertainty related to the long-term effectiveness and feasibility of sand replenishment,³ as well as the potential for changes in coastal management approaches within the littoral cell, which could significantly impact sediment transport in the area. Future impacts from sea-level rise may include not only increased hazards at the project site, but also loss of public beach area within the City. These impacts will be further evaluated and addressed in the City's LCP planning process, which is currently underway, with the benefit of two LCP grants from the Commission.

Application to this Project

The applicant has submitted a Coastal Hazard and Wave Runup Study dated June 21, 2017 prepared by Geosoils, Inc. of Carlsbad, CA for this property. The study concludes that because there is a wide sandy beach (approximately 550 feet wide) between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. The report finds that this holds true even for an estimated sea-level rise ranging from 1.25 feet to 4.5 feet. As mentioned previously, however, the sea-level rise projections from the OPC's 2018 guidance are 1.8 to 5.3 feet, potentially significantly higher than the levels analyzed by Geosoils. In addition, these projections have a level of uncertainty, as beaches are dynamic areas and our understanding of climate change and sea-level rise is constantly evolving. Therefore, the proposed new development, as a beachfront property, may be threatened by sea-level rise at some point in the future and require a shoreline protection device, if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area.

³ As sea level rises, there will be larger demand for limited beach-suitable sediment, and increased waves and flooding will lead to more frequent and severe erosion events, thereby increasing costs and reducing the effectiveness of nourishment efforts.

In any case, new development is not entitled to shoreline protection under the Coastal Act and the Commission would not likely approve this project if it required a shoreline protection device now or at some point in the future. The applicant must therefore acknowledge that the project, as new development, is not entitled to shoreline protection and it must waive any possible right to construct a shoreline protective device for the property in the future, as outlined in **Special Condition 2**. Further, the landowner must remove the development if (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust boundary; (d) removal is required pursuant to LCP policies for sea-level rise adaptation planning; or (e) the development would require a shoreline protective device to prevent a-d above that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP. **Special Condition 2** requires that if any of the proposed development becomes threatened by coastal hazards in the future, even though information presented by the applicant's engineer today finds that that is not expected, then the threatened development may need to be removed. This condition recognizes that the applicant's consultant has found that the site is currently expected to be safe, while also recognizing that predictions of the future of sea-level rise, flooding, and their impacts in Hermosa Beach, cannot be made with certainty. Thus **Special Condition 1** ensures that the risks of property damage or loss arising from sea-level rise or other changed circumstances are borne by the applicant enjoying the benefits of its private new development, and not the public.

Commission staff has reviewed the submitted coastal hazards analysis and has utilized the Our Coast, Our Future flood maps to analyze the project site's vulnerability to coastal hazards. The Commission concurs that beach erosion and wave uprush events will not significantly impact the proposed development given the current width of the public beach. However, the flood maps also show that the subject site is vulnerable to flooding over the next 75 years under a minimum 4.9 foot sea-level rise scenario and a 20 or 100 year storm scenario. Should the applicant need to implement flood-protection measures on the property in the future, it would need to submit an application for a coastal development permit for such measures. A more comprehensive strategy to address the flooding hazard in the low-lying beach areas in Hermosa Beach will be addressed in the Hermosa Beach LCP. Given that the applicant has chosen to implement the project on a beachfront lot despite potential risks from wave attack, erosion, sea-level rise, and flooding, the applicant must assume the risks and waive the rights to a shoreline protective device. Therefore, the Commission imposes **Special Condition 2**.

The first floor of the proposed development is set back 5 feet from the seaward property line and the upper floors are setback 3 feet from the seaward property line, which is consistent with the Hermosa Beach setback requirements. Although Hermosa Beach's setback requirements are not the standard of review for this permit, they provide guidance regarding the project's consistency with Coastal Act Chapter 3 public access policies. Given the width of the beach, and the additional setback for the property, there is an adequate setback to protect the structure from any future sea-level rise. There is also adequate room for adaptive measures (i.e. sandbags, barriers) on the property in the event that wave uprush does reach the property within the life of the structure without impacting public access. To ensure that the required setback is maintained, the Commission imposes **Special Condition 7**, requiring that the structure adheres to a minimum 5 foot setback from the seaward property line.

The project site has an approximately 185 square-foot portion of the patio and a 42 inch wall that currently encroaches 6 feet 2 inches into the public right-of-way at the seaward side of the property. The area of the patio encroachment is currently privately developed and is used in tandem with the portion of the patio that is located entirely within the private property. The encroachment area is under a separate lease agreement, and is subject to review, approval, and revocation by the City of Hermosa Beach Public Works Department. The applicant is proposing to add landscaping and to re-stucco the existing 42” wall in the encroachment area. The proposed encroachment is consistent with previously issued coastal development permits in the area, and does not currently impact public access. However, with sea-level rise or an increased use of the Strand, the City may require a widening of the public walkway, and further require that the applicant and all successors/assigns remove the encroachment in order to accommodate the change to the Strand. To ensure that the applicant maintains its encroachment permit with the City, which is revocable by the City of Hermosa Beach Public Works Department, the Commission imposes **Special Conditions 5 and 6** regarding the applicant’s rights and obligations related to the encroachment.

As conditioned, the project is consistent with Section 30253 of the Coastal Act.

C. DEVELOPMENT

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

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30251 of the Coastal Act states, in pertinent part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30604 of the Coastal Act states, in pertinent part:

Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

...

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Between 2005 and the present, the Commission has approved fourteen projects in Hermosa Beach involving the replacement of duplexes with single family residences. The proposed project is a similar type of project. The existing onsite structure is a duplex that does not comply with current zoning regulations regarding lot size. The City of Hermosa Beach, which does not have a certified LCP, designates the subject site as Limited Multiple-Family (R-2B) in its Zoning Code with a current maximum development of 1 unit per 1,750 square feet. The subject property has a lot size of 2,409 square feet, which allows one unit on the property by the City's zoning regulations. The lot is too small to accommodate a duplex; however, the site can accommodate a single-family residence.

The City of Hermosa Beach does have a Land Use Plan (LUP) that was certified in 1982, but no Implementation Plan was ever certified, so the City does not have a fully certified LCP and the LUP is not the standard of review for the Commission, although it can be used as guidance. Under the 1982 LUP, the maximum development for this parcel was 1 unit per 1,200 square feet. With a lot size of 2,409 square feet, a duplex would have been allowed on the lot under the LUP. The City's zoning code, which is not certified by the Commission, does not, however, allow development at this density. The maximum development in the R-2B zone is 1 unit per 1,750 square. Although the Chapter 3 policies of the Coastal Act are the applicable standard of review for the Commission, if the Commission were to approve a residential development on this parcel that was more dense than that allowed by the City's zoning code, the applicant would be unable to construct the development due to the conflict with the zoning code. Thus, the fact that the subject site is only allowed a single-family residence per the City's current zoning regulations supports the finding that the Commission's approval of the project would not reduce housing density because only one unit is permitted on the property per the City's zoning regulations.

The City of Hermosa Beach examines any Coastal Zone development that entails demolition or conversion of residential units that are not categorically exempt from the California Environmental Quality Act (CEQA) as required under the California Government Code (§65588(d) pursuant to Section 65590 (The Mello Act)). The Mello Act is a statewide law that

seeks to preserve housing for persons and families with low and moderate incomes in the Coastal Zone. The City of Hermosa Beach determined that the Mello act does not apply to any of the proposed development under Government Code Section 65590(b)(3). This section states, in relevant part:

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

...
The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

...
(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

Under the Mello Act, cities with less than 50 aggregate acres of vacant, privately-owned, residentially zoned land are not subject to the affordable dwelling unit replacement requirement. According to the City's 2014 Existing Conditions Report in its General Plan, the City of Hermosa Beach contained 33 vacant parcels totaling 2.6 acres of land. Only a portion of these parcels are residentially zoned. Therefore, the City determined that the Mello Act requirements are not applicable to the subject property [\(Exhibit 3\)](#).

Although the subject lot is too small to provide a second unit, the subject site is located in a dense, residentially-zoned area where numerous residential opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within ½ a mile of the subject property. In addition, the public beach is located adjacent to the public walkway fronting the subject site. Therefore, the project is located in an area that can accommodate it, will be consistent with the character of the area, and will not have cumulative adverse impacts to coastal resources. In addition, the location of the subject site within these nearby amenities minimizes vehicle miles traveled and energy consumption.

More broadly, planning for concentration of development and encouragement of affordable housing can be done through a City's Local Coastal Program, but is more difficult to do in a meaningful way on a project-by-project basis. Here, Hermosa Beach does not currently have a certified LCP. The Commission certified a Land Use Plan for Hermosa Beach on April 1982, but an Implementation Plan has not yet been finalized. This presents an opportunity for the City of Hermosa Beach to address affordable housing in the context of an LCP.

Therefore, the project is consistent with Sections 30250, 30251, and 30604 of the Coastal Act.

D. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 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 30212 of the Coastal Act states, in pertinent part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:[...]
(2) adequate access exists nearby, ...*

The project site is located adjacent to The Strand, an approximately 20-foot wide public lateral walkway. As the project plans illustrate, the proposed single-family residence is set back approximately 11 feet from the walkway. The property is setback 5 feet from the seaward property line, and the property line is setback approximately 6 feet from The Strand. The proposed project is consistent with the City's minimum five foot minimum setback from the seaward property line and is consistent with past commission action. Vertical beach access can be found approximately 100 feet north of the project site at the end of 19th Street. The development proposes three on-site parking spaces that will not impact public beach parking in the project vicinity.

As previously mentioned, the project site has an approximately 185 square-foot portion of the patio and a 42 inch wall that currently encroaches 6 feet 2 inches into the public right-of-way at the seaward side of the property. The encroachment area is under a separate lease agreement, and is subject to review, approval, and revocation by the City of Hermosa Beach Public Works Department. The applicant has submitted proof of enrollment in the lease program. The project plans illustrate that the encroachment area is proposed to be used as a continuation of the patio area, and will not contain permanent structures or living area

extensions. Therefore, no living area will extend seaward of the required 5-foot setback from the property line on the ground floor, and the 3-foot setback line on the upper floors ([Exhibit 2](#)). Furthermore, the encroachment area will allow the homeowner to perform repair and maintenance activities on the residence without blocking public beach access across The Strand. Therefore, the proposed project will not negatively impact access to and across the public beach.

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 to Sections 30210, 30211, and 30212 of the Coastal Act.

E. WATER QUALITY

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

1. Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the

Commission imposes **Special Condition No. 3**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

2. Post-Construction Impacts to Water Quality

The proposed project is considered development and there is an opportunity to improve water quality. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. In order to deal with these post construction water quality impacts, the applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. On-site drainage will be directed to permeable areas.

The applicant has stated that landscaping is proposed. The placement of any 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 (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). 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.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>.

The applicant has stated that landscaping will consist of California Native and water wise landscaping. While the proposed landscaping consists of non-invasive and drought tolerant plants, future landscaping may not consist of such plants. Therefore in order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 4**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 9** 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, 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 Land Use Plan (LUP) for Hermosa Beach was effectively certified on April 21, 1982; however, because Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

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 (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Hermosa Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Hermosa Beach determined that the proposed development is exempt under Section 15303(a), which exempts construction of a single-family residence in a residential zone from CEQA requirements. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the marine resources, water quality, hazards and public access policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents: City of Hermosa Beach Certified Land Use Plan; City of Hermosa Beach Approval-in-Concept, dated November 22, 2017; Coastal Development Permit Application File No. 5-17-1005; Coastal Hazard and Wave Runup Study, 1830 The Strand, Hermosa Beach, June 21, 2017 prepared by Geosoils, Inc. of Carlsbad, California