

**CALIFORNIA COASTAL COMMISSION**

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**W17b**

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**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 5-18-1209

**Applicants:** 1602 Loma, LLC

**Agent:** Stacy Straus, Srour & Associates

**Location:** 1602 Loma Drive, Hermosa Beach, Los Angeles County  
(APN: 4183-016-007)

**Project Description:** Demolish two-story, 2,112 sq. ft. triplex, and construct two 30-ft. high, three-story condominiums with roof deck, ranging in size from 2,643 to 2967 sq. ft. on a 4,249 sq. ft. lot.

**Staff Recommendation:** Approval with conditions

**SUMMARY OF STAFF RECOMMENDATION**

The applicant requests a coastal development permit (CDP) to demolish a two-story, 2,112 sq. ft. three-unit triplex and detached garage, and to construct two 30-ft. high, three-story condominiums on an inland lot, resulting in the loss of one residential unit. The standard of review is Chapter 3 of the Coastal Act, with the certified land use plan (LUP) providing guidance. The primary issue raised by this project relates to the potential cumulative loss of housing density in a developed coastal area that is relatively safe from sea level rise and is appropriate for more dense development.

Coastal Act Section 30250 provides that new residential development shall be located in or in close proximity to existing developed areas that are able to accommodate it, or in other areas with adequate public services and where it will not have significant, cumulative adverse effects on coastal resources. Section 30253 requires new development to minimize energy consumption and vehicle miles traveled. These policies together encourage locating new development in

appropriate areas that minimizes impacts on coastal resources and discourages residential sprawl in more rural or sparsely populated areas that are not adequately developed to support new residential development and where coastal resources could be threatened. In addition, the certified LUP identifies the preservation of existing housing stock as an important objective, and recognizes the need to continue the current mix of low, moderate, and high housing densities (refer to LUP policies in Section IV.B below).

The lot is designated Medium-Density Residential by the LUP, which allows single-family and two-family residences on the subject property. In addition, the LUP requires a minimum of 1,200 sq. ft. of lot area per residential unit, which would allow for up to three residential units on this 4,249 sq. ft. lot. The project site is located in a developed area characterized by duplexes and multi-family residences that has adequate public services and access to public transportation (thereby minimizing traffic and related impacts), and is relatively safe from sea-level rise for the foreseeable future. Therefore, it is appropriate and desirable to concentrate, and at the very least, maintain housing density at this location, consistent with Sections 30250 and 30253 of the Coastal Act.

The Commission certified the City's LUP on April 21, 1982. In 1986, the City implemented a zoning code update, which was not certified by the Commission. The uncertified zoning code increased the minimum lot area required per residential unit from 1,200 sq. ft. to 1,750 sq. ft. in the R-2 zone, which applies to this lot ([Exhibit 3](#)) and limits the number of residential units on this lot to two, instead of three as allowed in the certified LUP. The City's current development standards that have not been certified by the Commission and are more restrictive than what the certified LUP allows, appear to conflict with the Coastal Act and certified LUP policies aimed at maintaining housing density in appropriate areas that minimize impacts to coastal resources. Even though the City's current development standards have not been certified by the Commission, the applicant contends that the City's current zoning code prevents the construction of more than two units on the subject site because the site is smaller than 5,250 sq. ft.

In addition, in 2018, the City approved an Accessory Dwelling Unit (ADU) ordinance that prohibits the construction of ADUs or Junior ADUs (JADUs) on residentially-zoned lots with no more than one primary residence less than 4,000 sq. ft. The City's lot size requirement and use restriction—which, again, has not been certified and is not the standard of review for this CDP application—severely restricts opportunities to construct an ADU or a JADU on residential lots within the City's coastal zone, and poses a potential problem regarding the maintenance of existing coastal zone housing stock. In this case, the applicant also applied to the City for approval of a JADU to be located in one of the proposed condominium units, however the City denied the JADU proposal on May 28, 2019 because although the lot size is greater than 4,000 sq. ft., the proposal is for two detached condominium units, and the City's ordinance restricts JADUs to residential uses with no more than one proposed primary residence ([Exhibit 4](#)). The City recently acknowledged, however, that its ADU ordinance is not consistent with new state laws taking effect in January 2020, and that it will need to update their ADU ordinance to remove the minimum lot size requirement and to allow ADUs on lots with more than one single-family residence.

Consistent with recent Commission action on similar projects in Hermosa Beach, the applicant has proposed plans to allow for construction of a JADU within the rear condominium unit (that would be isolated from the main unit by installing a lockable door or constructing a non-structural wall to partition the unit, and will include a full bathroom and a kitchen area) in the

event that, at some point in the future, the City is willing to permit the use). **Special Condition 2** requires that prior to Coastal Development Permit No. 5-18-1209 being issued, the applicant must submit revised plans that include either one or two JADU or ADUs to be built on the site consistent with the Coastal Act and state law after January 1, 2020.

As conditioned to require the construction of at least one JADU or ADU on-site, the project is consistent with Sections 30250 and 30253 of the Coastal Act.

During construction and post construction, the proposed project has the potential to impact water quality and marine resources. Therefore, **Special Condition No. 1** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

As conditioned, the project can be found consistent with the Coastal Act.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION .....</b>	<b>5</b>
<b>II. STANDARD CONDITIONS.....</b>	<b>5</b>
<b>III. SPECIAL CONDITIONS.....</b>	<b>6</b>
<b>IV. FINDINGS AND DECLARATIONS .....</b>	<b>7</b>
A. PROJECT DESCRIPTION AND LOCATION .....	7
B. DEVELOPMENT .....	7
C. PUBLIC ACCESS .....	13
D. WATER QUALITY.....	14
E. LOCAL COASTAL PROGRAM.....	15
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) .....	16

### APPENDICES

Appendix A – Substantive File Documents

### EXHIBITS

Exhibit 1 – Vicinity Map and Project Location

Exhibit 2 – Project Plans

Exhibit 3 – Appendix G Table XXVI of the City of Hermosa Beach Certified LUP

Exhibit 4 – City of Hermosa Beach ADU Ordinance (2018)

Exhibit 5 - City of Hermosa Beach’s Denial of Applicant’s JADU Proposal

Exhibit 6 – Project Plans Including JADU

Exhibit 7 – Assembly Bill No. 68 Regarding ADUs

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-19-0357 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 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. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** By acceptance of this permit, the applicant agrees to 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.

**2. A. Final Revised Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit final revised plans that include at least one Junior Accessory Dwelling Unit or Accessory Dwelling Unit in one or both of the condominium units as proposed by the applicant and in substantial conformance with the project plans submitted by Srour & Associates dated January 30, 2019, and shall include the following:

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**B.** If the applicant is unable to obtain approval of the project from the City of Hermosa Beach due to the proposed JADU or ADU, the applicant may apply for an amendment to Coastal Development Permit No. 5-18-1209.

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. PROJECT DESCRIPTION AND LOCATION**

The applicant is proposing to demolish a two-story, 2,112 sq. ft. three-unit triplex and detached garage (which was constructed in 1924), and to construct two 30-ft. high, three-story detached condominiums with roof decks that range in size from 2,643 to 2,967 sq. ft., each with an enclosed, private two-car garage on a 4,249 sq. ft. lot (**Exhibit 2**). The project site is located in an urbanized neighborhood 0.3 mile inland from the beach (**Exhibit 1**). The site is located in a Two-Family Residential (R-2) zone, which allows single-family residences and attached and/or detached multiple dwelling units. The LUP's land use designation for the project site is Medium-Density Residential, which allows single-family residences, duplexes, and condominiums. Proposed grading includes 710 cu. yd. of cut to be exported outside of the coastal zone.

The Commission certified the City's LUP in April, 1982 which was subsequently accepted by the City Council. However, the City does not yet have a certified Implementation Plan. At the time of its approval, the LUP was generally consistent with the City's zoning code. However, the zoning code as a whole was not approved as part of the LUP. Subsequent to the Commission's approval of the LUP, the City updated their local zoning code, which was not reviewed or certified by the Commission for consistency with the Coastal Act, and portions of it are no longer consistent with the certified LUP. The Chapter 3 policies of the Coastal Act constitute the standard of review for this permit application, but the certified LUP should be used as guidance.

##### **B. 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 30253 of the Coastal Act states, in pertinent part:

*New development shall do all of the following:*

*(d) Minimize energy consumption and vehicle miles traveled*

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.*

Coastal Act Section 30250 provides that new residential development shall be located in or in close proximity to existing developed areas that are able to accommodate it, or in other areas



with adequate public services and where it will not have significant, cumulative adverse effects on coastal resources. Section 30253 requires new development to minimize energy consumption and vehicle miles traveled. These policies together encourage “smart” growth by locating new development in appropriate areas that minimizes impacts on coastal resources and discourages residential sprawl in more rural or sparsely populated areas that are not adequately developed to support new residential development and where coastal resources could be threatened. Although the Coastal Act does not authorize the Commission to regulate or require affordable housing, Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities.

**Housing Density and Concentrating Development**

The certified LUP defines medium-density development as follows:

*MEDIUM DENSITY: 14-25 dwelling units per net acre. This category would consist mostly of two-family homes and single-family homes on small lots, including garden apartments, and townhouses. It is intended that any future development in this area shall fall within the specified density range.*

The certified LUP also includes the following development standards regarding the minimum lot area per dwelling unit for residential parcels:

<b>Zone</b>	<b>Uses</b>	<b>Lot Area per Dwelling Unit</b>
R-1	Single family dwellings, accessory building	1 lot/1 dwelling unit
R-2 R-2B	Single-family dwellings built to R-1 standards; duplexes; condominiums. (For lots less than 30 ft. wide, only a single-family residence)	1,200 sq. ft./1 dwelling unit
R-3	Multiple Dwellings (For lots less than 2,400 sq. ft., only a single-family residence)	950 sq. ft./1 dwelling unit.
R-P	Residential use- develop to R-3 requirements Professional use- subject to Conditional Use Permit	Same as R-3

At the time of its approval, the City’s LUP was generally consistent with the City’s zoning code. Portions of the zoning code at that time- including the Minimum Lot Size per Dwelling Unit development standards- were incorporated into the certified LUP as appendices ([Exhibit 3](#)). However, there is ambiguity regarding density within the Certified LUP because the appendices provide conflicting guidance. While Appendix G of the LUP dictates that the minimum lot area per residential unit is 1,200 sq. ft. per dwelling unit, the applicant argues (and the City agrees) that Appendix J addresses residential density which allows a range of 14-25 housing units per acre in medium density areas, such as R2, and since the applicant’s lot totals 0.097 acre, the City’s density standard limits the number of units to 2.425 on the subject lot. However, both appendices were certified by the Commission and are appropriate to use as guidance for reviewing development projects in the City’s Coastal Zone. Furthermore, Appendix J states, in part:

*“It should be emphasized that the Land Use Element Density Plan is only a guide for zoning decisions, and not a specific districting plan...The basic purpose and intent of the Density Plan of the Land Use Element is to set the broad outline of growth pattern to achieve the target optimum maximum density of 24,000 persons when the City is fully developed.”*

Because the LUP indicates that the density ranges in Appendix J are intended to establish “...the general land use patterns and residential densities in the City” the Commission uses the more specific minimum lot area per dwelling unit standards in Appendix G to determine appropriate density for individual development proposals in the City’s Coastal Zone. It should also be noted that the City’s current population is well below the LUP target of 24,000 people<sup>1</sup> (current population estimate is 19,673 people). Regardless, the City does not have a certified Local Coastal Program (LCP) and therefore, the standard of review for the subject application is the Chapter 3 policies of the Coastal Act, with the certified LUP used for guidance.

In addition, in 1986, after the Commission certified the City’s LUP, the City implemented a zoning code update, which increased the minimum lot area per unit from 1,200 sq. ft. to 1,750 sq. ft. in the R-2 zone, where the project site is located (Exhibit x).The current zoning code, including the minimum lot area per unit standard, has not been reviewed or certified by the Commission for consistency with the Coastal Act and, therefore, it is not a standard of review for the purposes of approving this CDP application.

The project site consists of a rectangular, 4,249 sq. ft. lot that is zoned R-2 which is currently developed with a three-unit triplex. The site is located in an area that is designated in the certified LUP as Medium-Density Residential. The current development of the site is consistent with the Medium Density Residential designation in that three residential units are currently available on site. The triplex also complies with the certified LUP’s minimum lot area per dwelling unit development standards: with a lot size of 4,249 sq. ft. and a minimum lot area per density of one unit per 1,200 sq. ft. in the R-2 zone, the project site can accommodate up to three on-site residential units ([Exhibit 3](#)).

The LUP for Hermosa Beach also emphasizes the need to protect its housing stock and to maintain diversity in housing options. The LUP “Statement of Philosophy” in regard to coastal housing reads as follows:

*The City of Hermosa Beach shall maintain its current housing environment. The City also recognizes the need to address certain housing policies which relate to the replacement and protection of existing housing, and the provision of new housing. These policies will be dealt with on a city wide basis...*

This project is one of a number of similar projects that have come before the Commission in Hermosa Beach involving a reduction of residential units within the City, and several more applications that could result in a reduction of housing units are currently pending. Many of the projects that have previously come before the Commission consisted of the demolition of a duplex or multi-family structure and the construction of a single-family residence. Commission

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<sup>1</sup> Southern California Association of Governments – Local Profiles Report – May 2019  
<https://www.scag.ca.gov/Documents/HermosaBeach.pdf>

staff has previously identified a general trend in Hermosa Beach of loss of housing density throughout the coastal zone. If the Commission were to approve this project as proposed, the resulting cumulative impacts to coastal resources could be continued reduction in housing density.

Section 30250 of the Coastal Act requires new development to be sited in existing developed areas where it can be accommodated without adverse cumulative impacts to coastal resources. Section 30253(d) requires new development to minimize energy consumption and vehicle miles traveled. Concentrating development in existing developed areas provides more opportunities for people to live near places they work and recreate, such as the beach, and, thereby, reduces impacts to coastal resources. Impacts to roads and vehicle miles traveled would be reduced by having a more intense stock of housing located closer to employment and recreational opportunities within the coastal zone. Also, by having a higher density in an existing developed area, more people are placed in a shared location encouraging the utility of public transit service, which further aids in reducing the number of cars on streets, thus reducing impacts to coastal resources and public access. Siting dense development in urbanized areas reduces urban sprawl, and furthermore reduces the pressure to extend development into adjacent undeveloped areas, which may contain sensitive coastal resources, such as the nearby Santa Monica Mountains.

For the proposed project, Commission staff analyzed housing data from LandVision, a real estate mapping tool. According to LandVision, most lots in the immediate vicinity of the subject site are 4,000 sq. ft. In addition, there are 178 lots zoned R-2 within the Hermosa Beach Coastal Zone (a total of 256 residential units). Of the 178 lots, 57 lots are currently developed with two or more units. Of these 57 properties, 45 are developed with duplexes, five are developed with triplexes, two are developed with a quadraplex, and four are developed with a five-unit residential structure. If the City's uncertified zoning code, which increased the minimum lot area per unit from 1,200 sq. ft. to 1,750 sq. ft. in the R-2 zone, were to be adhered to during redevelopment of those lots, many housing units would be lost because those lots would only be permitted to be redeveloped with two or fewer units. However, in this case, as conditioned, the proposed replacement of a three-unit triplex with two detached condominiums and requirement to construct a JADU within one of the units means that housing density could be maintained when/if the JADU is constructed. Thus, the risk of cumulative impacts to coastal resources as a result of approving this project is significant, but is minimized by the possibility of construction of an ADU attached to one of the condominiums.

In addition, although the certified LUP would allow for construction of an ADU at this location, the City approved an ADU ordinance in 2018 that prohibits the construction of ADUs and/or JADUs on lots containing more than one primary residence less than 4,000 sq. ft. ([Exhibit 4](#)). On May 15, 2019, the applicant submitted a request to the City for a JADU to be located within the rear condominium unit that would be isolated from the main unit by installing a lockable door or constructing a non-structural wall to partition the unit, in the event that, at some point in the future, the City is willing to permit the use. On May 28, 2019, the City denied the proposal because although the lot size is greater than 4,000 sq. ft., the proposal is for two detached condominium units, and the City's ordinance restricts JADUs to residential uses with no more than one proposed primary residence ([Exhibit 5](#)).

The City's ADU ordinance has not been submitted to the Commission for review and/or approval for consistency with the Coastal Act and is therefore not a standard of review for any coastal development permit. In addition, state laws that will take effect in January 2020<sup>2</sup> will prohibit local governments from imposing minimum lot size requirements on properties that may have an ADU ([Exhibit 7](#)). Here, City staff confirmed in an email to Commission staff that the City will need to update its ADU ordinance to allow ADUs on properties with multiple units and to eliminate the current minimum lot size requirement.

In prior Commission action on a similar project in Hermosa Beach, approved by the Commission at the September 2019 Commission meeting (Coastal Development Permit No. 5-19-0137, Young), the Commission acknowledged the complexities of the various City's Land Use Plan policies and, relying on its broad discretion under Chapter 3 of the Coastal Act, did not require the project applicant to construct an ADU as a condition of approval, and instead required the applicant to modify the design of the new single-family residence to allow for construction of an ADU at a future time.<sup>3</sup>

In this case, the applicant has proposed to include a JADU in at least one of the condominium units ([Exhibit 6](#)), and although the City denied this proposal in May of 2019, the City has since acknowledged that its uncertified ADU ordinance will not be consistent with State laws taking effect in 2020 ([Exhibit 7](#)). For the reasons stated above, the Commission finds it is appropriate and consistent with Chapter 3 in this case to impose **Special Condition 2** requiring the applicant to submit revised plans prior to the issuance of this coastal development permit to include a JADU or ADU, and, if the City does not allow the construction of a JADU or ADU onsite, the applicant may apply for an amendment to this permit.

### **Affordable Housing**

The project also raises potential issues regarding affordable housing. Here, the standard of review is Chapter 3 of the Coastal Act, which does not authorize the Commission to regulate or require affordable housing. That authority was removed from the Coastal Act by the Legislature, and a separate statute, the Mello Act (Government Code Section 65590), establishes requirements for affordable housing in the Coastal Zone that apply to local governments, not the Commission. However, Section 30604(f) of the Coastal Act directs the Commission to *encourage* low and moderate income housing opportunities in the Coastal Zone. It is difficult to predict exactly how the loss of one housing unit at this location would impact housing costs in Hermosa Beach; however, in general, smaller units within multi-family structures are usually more affordable than larger units and single-family residences.<sup>4</sup>

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<sup>2</sup> See <https://www.gov.ca.gov/2019/10/09/governor-gavin-newsom-signs-18-bills-to-boost-housing-production/> for summary of relevant new state laws regarding housing density and ADUs.

<sup>3</sup> During the Commission's September 2019 hearing, the Commission voted to approve the project with an additional special condition to design the residence in a manner that could accommodate an ADU should the homeowner decide to develop an ADU at some point in the future (with City approval).

<sup>4</sup> The City found that the project site is not subject to the Mello Act pursuant to Government Code 65590(b). This provision of the Mello Act states that the requirement to replace residential units does not apply in cities which have less than 50 aggregate acres of land that is vacant, privately owned, and zoned for residential use up to three miles inland. The City's 2014 Existing Conditions Report states that the City of Hermosa Beach only had 33 vacant parcels totaling 2.6 acres of vacant land, and that only a portion of these parcels are zoned residential. Therefore, the

To address the affordable housing and density issue more broadly, planning for concentration of development and encouragement of affordable housing should be pursued through a city's Local Coastal Program (LCP), as it 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 an LUP for Hermosa Beach in April 1982, but an Implementation Plan has not yet been finalized. Therefore, the City of Hermosa Beach has the opportunity to develop an LCP that can address housing density and affordable housing throughout the Coastal Zone. This update must not only provide clear policies to protect the existing housing stock, but must also reconcile discrepancies between the previously certified LUP and subsequent uncertified documents which have created challenges in evaluating development projects for consistency with the Coastal Act. In this case, however, the replacement of a three-unit triplex with two condominiums will not likely prejudice the ability for Hermosa Beach to develop an LCP that is consistent with the Coastal Act because there are low, medium, and high density residential zones throughout the Coastal Zone that will continue to maintain a diverse housing stock. Furthermore, the project does not result in a significant loss in affordable housing.

### **Community Character**

Section 30251 provides that new development shall be in keeping with the character of the surrounding area. This corresponds closely with Section 30250, which provides that new development shall be sited in areas that can accommodate it. In order to better understand the character of the neighborhood, Commission staff requested the applicant submit additional information regarding the number of units of neighboring structures within a 150 foot radius of the proposed project site. Of the 43 properties surrounding the project site including common-interest communities, 36 are under single ownership, and most lots in the immediate area share similar characteristics, in that they are on 4,000 sq. ft. lots. Overall, the surrounding neighborhood contains a mix of single-family and multi-family residences that are two and three stories tall. The proposed three-story condominiums are of a similar mass and scale to the surrounding residences, and will not result in a significant change to the overall makeup of the neighborhood. Therefore, the proposed development is consistent with Section 30251 of the Coastal Act with regard to community character.

In conclusion, as conditioned to require one condominium to be designed to allow for a JADU at a future time when allowed by the City, the project is consistent with Sections 30250, 30251, and 30253 of the Coastal Act.

### **C. 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*

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City concluded that the Mello Act would not apply to this project. However, the City did not make a determination as to whether the existing duplex provided affordable housing.

*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.*

The development proposes five on-site parking spaces. The existing drive way located on the south side of the lot will be relocated to the north side of the lot and will provide access to the motor court and garage at the center of the lot between the two buildings which will be accessed from Loma Drive. Two parking spaces will be enclosed in the private garage of each condominium, and one shared guest parking space will be located at the end of the driveway adjacent to the rear unit. No change to street parking is proposed. Therefore, the proposed project will not impact public beach parking in the project vicinity. The closest public coastal access point from the project site is approximately one-third of a mile west of the subject lot at the terminus of 16<sup>th</sup> Street. 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 proposed, the development conforms to Sections 30210 and 30211 of the Coastal Act.

#### **D. 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.*

### **Construction Impacts to Water Quality**

The above policies of the Coastal Act require protection of marine resources, including the protection of coastal waters by controlling runoff and preventing spillage of hazardous materials. 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.

The applicant has submitted an erosion control plan to minimize erosion impacts during construction. Best management practices will also be incorporated throughout the course of construction. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition No. 1**, 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.

### **Post-Construction Impacts to Water Quality**

The proposed project has the potential to adversely impact the water quality of the nearby Pacific Ocean. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. In order to address 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. Roof runoff will be collected in roof gutters and will be directed down roof downspouts that connect to a sump pump adjacent street and public storm drain system. Site development also incorporates use of landscaped yards and permeable pavers throughout both side yards and front yard to capture surface run-off.

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

## **E. 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.

## **G. 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 October 24, 2018