

**CALIFORNIA COASTAL COMMISSION**

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**W16b**

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**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 5-18-1212

**Applicant:** The Lowell/Correll Family Trust

**Agent:** Srour and Associates

**Location:** 1942 The Strand, Hermosa Beach, Los Angeles County  
(APN: 4182-006-034)

**Project Description:** Construction of a new 3,543 sq. ft. three-story single-family residence with a 1,474 sq. ft. basement and attached 455 sq. ft. two-car garage on a 2,462 sq. ft. vacant lot and 1,760 sq. ft. after-the-fact street vacation.

**Staff Recommendation:** Approval with conditions

**SUMMARY OF STAFF RECOMMENDATION**

The applicant requests a permit to construct a new single-family residence on a vacant beachfront lot immediately adjacent to The Strand, a popular recreational public walkway between the sea and the first public road. 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 is located in an area where coastal hazards exist and could adversely impact the development. Therefore, the Commission imposes Special Condition 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 resources, including sand supply, public access, coastal views, beach dynamics, and natural landforms, the Commission imposes Special Condition 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 the potential to impact 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 3 outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris; and Special Condition 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 proposed project includes construction of a basement, and the applicant has indicated that temporary dewatering is required during the construction phase. Because the basement is proposed to be constructed in an area with a high water table that could experience flooding, the Commission imposes Special Condition 5, requiring the applicant to submit a dewatering plan, detailed measures to ensure the basement is flood resistant, and proof of approval by applicable agencies prior to issuance of the coastal development permit.

As proposed, a 319 square-foot portion of the ground-floor patio and an existing 28 inch high landscape wall will encroach approximately 6 feet into the public right-of-way at the seaward side of the property. The patio and wall are located adjacent to the improved public walkway, and do not encroach into the publicly-used area. 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. With sea-level rise or an increased public 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. The Commission authorizes a temporary approval of these structures within the public right-of-way until such time that the City revokes the encroachment permit or that the structures prevent public access to the recreational trail. The Commission imposes Special Conditions 6 and 7 regarding the applicant's rights and obligations related to the encroachment. The portion of 20<sup>th</sup> Street which abuts the project site is a walk street closed to vehicular access. The proposed project includes landscaping, patios and walkways, and two additional private off-street parking spaces on part of the former 20<sup>th</sup> Street right-of-way which is owned by the applicant. The Commission also imposes Special Condition 8, requiring the applicant to maintain a five-foot setback from the seaward property line on the ground level, and a three-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 walkway 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 which could potentially result in adverse impacts to coastal processes does not occur, the Commission imposes Special Condition 9, which informs the applicant that future development at the site requires an amendment to Coastal Development Permit No. 5-18-1212 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 10 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 – Google Street View Photograph](#)

[Exhibit No. 3 – Encroachment Area and Former 20<sup>th</sup> Street Portion Owned by Applicant](#)

[Exhibit No. 4 – Project Plans](#)

[Exhibit No. 5 – Court Judgement: Allen vs. City of Hermosa Beach, Case No. YC016526](#)

[Exhibit No. 6 – CDP No. 5-01-186 Commission Letter to City Planning Department](#)

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-18-1212 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 or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

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) that critical mechanical equipment may be required to be relocated above-grade in the future given that the basement is located below the water table and groundwater inundation is expected to increase with sea level rise in the future; (iii) 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; (iv) 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 (v) 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, basement, 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 or the basement walls would essentially function as 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 June 26, 2018, 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. Final Dewatering Plan and Basement Flood Proofing**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final dewatering plan and a detailed description of measures to be undertaken to ensure the basement will be flood resistant for the review and approval of the Executive Director. The final dewatering plan flood proofing measures must first be approved by the City of Hermosa Beach and other applicable agencies.
- B. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director a copy of a dewatering permit issued by the Los Angeles County Sanitation District or the Regional Water Quality Control Board, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Los Angeles County Sanitation District or the Regional Water Quality Control Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required. In addition, dewatering on the public beach or The Strand is not authorized by this permit, and any proposal to install dewatering infrastructure (temporary or permanent) on the public beach or The Strand shall require an amendment to this permit.

## **6. Encroachments**

- A. An approximately 319 square-foot patio, which extends approximately 6 feet into the public right-of-way, for approximately 30 feet along the width of the seaward property line and approximately 20 feet along the seaward property line of the former 20<sup>th</sup> Street right-of-way, and an existing 28 inch high landscape wall are the only development allowed by this Coastal Development Permit (5-18-1212) in the City of Hermosa Beach Oceanfront Encroachment Area at 1942 The Strand, as shown in [Exhibit 3](#). 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. 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.

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

**7. 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. Accordingly, the Commission's temporary approval of the 319 square-foot patio and retention of the 28-inch high wall encroachments into the public right of way shall expire when the City revokes the permit or the improvement impede public access to The Strand public coastal walkway or surrounding coastal areas.

**8. Minimum Seaward Setbacks.** The rear (seaward) setback of the structure shall not be less than five (5) feet from the property line on the ground floor, and no less than three (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, but does not apply to ground level patios, decks, or similar rear yard hardscape.

**9. Future Development.** This permit only authorizes the development described in Coastal Development Permit No. 5-18-1212. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions that would otherwise be provided in Public Resources Code section 30610(a) shall not apply to the development approved by CDP No. 5-18-1212. Accordingly, any future improvements to the structure authorized by this permit shall require an amendment to CDP No. 5-18-1212 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP No. 5-18-1212 from the Commission or an additional CDP form the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit pursuant to PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

**10. 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 construct a 30-foot high, three-story, 5,017 square-foot single-family residence with a ground-level patio, basement, roof deck, and a 455 square-foot, two-car attached garage on an existing 2,462 sq. ft. vacant lot ([Exhibit 4](#)). One additional off-street parking space is proposed on the subject site. Some landscaping is proposed utilizing native or non-native, non-invasive, and drought tolerant plants. Proposed grading includes 766 cubic yards of cut for the proposed basement. The subject site is a residential lot located at 1942 The Strand in the City of Hermosa Beach, Los Angeles County ([Exhibit 1](#)). The lot is located within a developed urban residential area approximately 0.5 miles north of the Hermosa Beach Pier, located between the first public road and the sea.

A single-family residence previously straddled the lot line of the subject parcel and the adjacent parcel to the south. In December 2015, the Commission approved a CDP to demolish the existing residence and to construct a new 3,823 sq. ft. single-family residence on the southern lot, which was subsequently constructed (Ref: CDP No. 5-15-1322/HB Strand Endeavor).

The site is located on the inland side of The Strand – an improved 26-foot wide public right-of-way that separates the residential development from the public beach. The Strand extends for approximately four miles, from 45th Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). The Strand also serves as part of the greater California Coastal Trail system.

Approximately 20 feet of the width of The Strand right-of-way is improved and is dedicated to recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. Approximately five to six feet of the width of The Strand right-of-way is used as a private encroachment area by adjacent homeowners with approval of an encroachment permit from the City. The nearest vertical public access to the beach is available via the public right-of-way directly adjacent to the site at the western end of 20th Street.

A majority of the private land located inland 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. The proposed 30-foot high, 5,472 square foot single-family residence (including garage) is of a similar mass and scale to other properties in the project vicinity.

The project includes a system to manage and increase on-site percolation of storm water and capture and treat dry weather runoff, which includes an underground water cistern located in the north easterly portion of the property under the driveway. Any overflow will be pumped to a gravity flow drainage pipe and will outlet into the existing street catch basin. A sump pump will be located in the basement and will be connected to the gravity flow drainage system that will drain to the underground cistern. Planters and landscape areas will be utilized throughout the site, as well as permeable pavers to promote incidental rainwater infiltration and to reduce stormwater runoff from the site. Best management practices will also be incorporated throughout the course of construction.

A 1995 Los Angeles County Superior Court judgement ruled that the City owns only the middle sixteen feet of several of the walk street right-of-ways which abut The Strand, including 20<sup>th</sup> Street which abuts the subject site ([Exhibit 5](#): Allen vs. City of Hermosa Beach, Case No. YC016526). The court found that the remainders of the rights-of-way (that is, all except for the sixteen-foot wide public walk streets) are owned by the abutting landowners. Thus, no transfer of title or other, similar action is necessary to perfect the applicant's rights, vis-à-vis the City, to the once-disputed area. Subsequent to the 1995 court decision, the Commission has approved CDPs for demolition of the existing home and construction of a new home on six of the 27 affected properties (Ref: CDP Nos. 5-98-520-W/2040 The Strand, 5-00-086/302 The Strand, 5-01-186/600 The Strand, 5-03-487/2340 The Strand, 5-10-231/340 The Strand, and 5-13-1347/The Strand). In review of a previous application that was also subject to the court decision, Commission staff confirmed that the City Planning Department considered the judgement to be the controlling authority concerning the property rights related to 20th Street and, thus, the areas are determined to be in private ownership along 20th Street are owned by the landowners free and clear of any interest of the City ([Exhibit 6](#), Ref: CDP No. 5-01-186). For this property, the judgment determined that the southerly 22 feet of 20th Street is owned by the property owner, not the City. The affected former portions of the walk streets that are now in private ownership are located within the City's Open Space Overlay Zone (OS-O). The zone allows for a variety of landscaping improvements (hardscape/softscape). Specifically, landscaping walls are limited to 36 inches in height and decks are limited to 12 inches in height. The OS-O allows open vehicular parking, but prohibits pools, sheds, and most motor vehicle storage. The proposed project includes landscaping, patios and walkways, and two additional private off-street parking spaces on the approximately 1,800 sq. ft. portion of the former 20<sup>th</sup> Street right-of-way which is owned by the applicant.

The City has review the proposed project and found it consistent with local zoning requirements, as evidence by their Approval-In-Concept, dated September 6, 2018. The proposed project conforms to the certified LUP 30-ft height limit for R-2B zoned, low density residential, and conforms to the setback limits for the front, rear and side yards.

## **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 runoff, 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, which would further impact public access and recreation and would have detrimental effects to natural processes and coastal resources.

The Coastal Act contains policies that have the effect of restricting shoreline protection because such structures 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, under natural conditions, will have less horizontal distance between the mean low water and mean high water lines, which narrows the beach sandy 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 sand materials may be lost offshore, where it is no longer available to nourish the beach. This also affects public access through a loss of sandy 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 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 scenic public views. Shoreline protective devices can also prevent the natural inland migration of Public lands (whether submerged lands, tidelands, or public State lands) in areas where they are not adjacent to adjudicated property lines. 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 requires that new development minimize risk to life and property in areas of high flood hazards and 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," including the natural shoreline and seacliffs. 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.<sup>1</sup> 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 2.1 and 6.7 feet by the year 2100, 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 tracking along the higher projections), OPC and the Natural Resources Agency have continued to recommend against 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 residential home, an increase in sea-level will increase the inundation of the structure. More of the structure

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

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.

The City of Hermosa Beach completed an initial sea-level rise vulnerability assessment in 2014.<sup>2</sup> 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 [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,<sup>3</sup> 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

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

<sup>3</sup> 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.

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 and supplemental hazard memos dated February 26, 2018, December 31, 2018, and February 14, 2019 prepared by GeoSoils, Inc. of Carlsbad, CA for this property. The study concludes that because there is a wide sandy beach (approximately 450 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 of 6 feet. The evaluated sea-level rise projection is consistent with the OPC's 2018 guidance. However, the sea-level rise 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.

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) basement walls would essentially function as a shoreline protective device or 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. The proposed basement will be located below the existing groundwater level. The groundwater level is expected to further rise with sea level rise, which could result in an increased flood risk for the below-grade portions of the proposed home. In particular, critical mechanical equipment which is currently proposed to be located in the basement may need to be relocated if the planned waterproofing is inadequate to prevent flooding. 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 are not expected to significantly impact the proposed development given the current width of the public beach. In addition, the flood maps do not show that the subject site will be vulnerable to flooding over the next 75 years under a minimum 6.6 foot sea-level rise scenario and a 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 temporary measures (i.e. sandbagging). 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 five feet from the seaward property line and the upper floors are setback three to five feet from the seaward property line, which is consistent with previous Commission action in this area. 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 temporary adaptive measures (i.e. soft protection such as sandbags) 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 8, requiring that the structure adheres to a minimum five foot setback from the seaward property line at the ground level.

As proposed, a 319 square-foot portion of the ground-floor patio and an existing 28 inch high landscape wall will encroach approximately 6 feet into the public right-of-way at the seaward side of the property. The patio and wall are located adjacent to the improved public walkway, and do not encroach into the publicly-used area. The area of the patio encroachment will be used as private patio space in tandem with the portion of the patio that is located on the private property; in other words, the proposed patio straddles the line between the public right-of-way and 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 retain an existing 28 inch high 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 along The Strand. 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 6 and 7 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. 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 subject development would be setback five feet from the seaward property line, and the property line is located immediately adjacent to The Strand right-of-way. As stated previously, the applicants have obtained an encroachment permit to use a six-foot deep portion of The Strand right-of-way as a private patio space temporarily. As such, the private patio is immediately adjacent to the improved public walkway, The Strand. If the proposed development were constructed with a zero-foot setback from the property line, it would be immediately adjacent to the public right-of-way and there would be no space for a private patio on the private property. The only patio space available would be temporarily provided within the six foot encroachment area. As this authorization could be revoked at any time, and the house, once constructed, would be permanent, it is important to maintain the five-foot setback from the seaward property line to ensure provision of maximum public access both now and in the future.

The proposed project is consistent with the City's minimum five-foot setback from the seaward property line and is consistent with past Commission action that imposes conditions for a minimum setback from public beaches and public right-of-ways. The development proposes three on-site parking spaces and two additional off-street spaces former 20<sup>th</sup> Street right-of-way that will not impact public beach parking in the project vicinity.

As previously mentioned, the applicant proposes to install an approximately 319 square-foot portion of a private patio and to retain an existing 28 inch high landscape wall that currently encroaches approximately 6 feet into the public right-of-way at the seaward side of the property and seaward of the former 20<sup>th</sup> Street right-of-way. 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 five-foot setback from the property line on the ground floor, and the three to five-foot setback line on the upper floors ([Exhibit 4](#)). Furthermore, the five foot setback area will allow the homeowner to perform repair and maintenance activities on the residence from private property, without blocking public beach access across The Strand. Because the encroachment permit could be revoked at any time by the City, and because the improvements within the public right-of-way are authorized on a temporary basis (per Special condition 7), and can be removed if there are any impacts to coastal access or coastal resources, 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.

#### **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. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes Special Condition 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.

The proposed project includes construction of a basement. The applicant has submitted a Preliminary Soils Investigation report in conjunction with the proposed excavation activities for the basement. The report indicates that the groundwater level occurs ten feet below grade. The project plans show that the finish floor of the proposed basement is located 2 feet below the water table. The applicant's engineering report states that "*Dewatering of the excavation will be necessary during construction and a permanent system should be installed to protect the subterranean portion of the structure.*" The applicant has indicated that the basement will be waterproof and that the recommended dewatering during construction will be undertaken. Given that construction will take place within the water table, excess water is likely to need to be disposed of during construction activities. Improper treatment and disposal of such water could have adverse impacts on coastal resources; therefore a final dewatering plan should be prepared in advance of the intended construction to ensure proper handling of water encountered during construction. Thus, the Commission imposes Special Condition 5, which requires a final dewatering plan prior to issuance of a coastal development permit. In addition, the applicant must provide evidence that the appropriate permits have been obtained from the corresponding agencies. In order to assure that the proposed development is safe from flood hazards; Special Condition 5 also requires that the applicant submit a detailed description of all measures that will be undertaken to ensure the basement is flood resistant.

### **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 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. Roof runoff will be

collected in roof gutters and will be directed down roof downspouts that connect to an underground capture and re-use storm water cistern located in the north easterly portion of the property under the driveway. Any overflow will be pumped to a gravity flow drainage pipe and will outlet into the existing street catch basin. A sump pump will be located in the basement and will be connected to the gravity flow drainage system that will drain to the underground cistern. Planters and landscape areas will be utilized throughout the site, as well as permeable pavers to promote incidental rainwater infiltration and to reduce stormwater runoff from the site.

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 consists of such plants. For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County).

In order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes Special Condition 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.

## **E. 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 10 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 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.

## **F. 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 a non-discretionary project, and is therefore exempt 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 September 6, 2018
- Coastal Hazard and Wave Runup Study, 1942 The Strand, Hermosa Beach, February 26, 2018 prepared by GeoSoils, Inc. of Carlsbad, California
- Coastal Hazard and Wave Runup Study, 1942 The Strand, Hermosa Beach, December 31, 2018 prepared by GeoSoils, Inc. of Carlsbad, California
- Coastal Hazard and Wave Runup Study, 1942 The Strand, Hermosa Beach, February 14, 2019 prepared by GeoSoils, Inc. of Carlsbad, California
- Supplemental Geotechnical Investigation – Proposed Residential Development – Located at 1942 The Strand, in the City of Hermosa Beach, California, March 14, 2018, prepared by Norcal Engineering
- CDP Nos. 5-98-520-W/2040 The Strand, 5-00-086/302 The Strand, 5-01-186/600 The Strand, 5-03-487/2340 The Strand, 5-10-231/340 The Strand, and 5-13-1347/The Strand, 5-15-1322/ HB Strand Endeavor