**CALIFORNIA COASTAL COMMISSION**
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| Hearing Date: | 09/12/2019 |

## STAFF REPORT: CONSENT CALENDAR

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| **Application No.:** | **5-19-0405** |
| **Applicant:** | **Scott Maxwell** |
| **Agent:** | Srour and Associates |
| **Location:** | 1918 The Strand, Hermosa Beach, Los Angeles County (APN 4182-006-003) |
| **Project Description:** | Demolish 2,381 sq. ft. single-family residence and construct 30-ft. high, 3-story, 3,987 sq. ft. single-family residence on a 2,370 sq. ft. beachfront lot. |
| **Staff Recommendation:** | Approval with conditions |

## SUMMARY OF STAFF RECOMMENDATION:

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

Staff recommends APPROVAL of Coastal Development Permit Application No. 5-19-0405 with eight special conditions regarding: 1) water quality, drainage and landscaping plans; 2) encroachments; 3) City's right to revoke encroachment permit; 4) waiver of liability and indemnity; 5) adherence to seaward setback; 6) future development; 7) waiver of any right to construct a future shoreline protective device; and 8) a deed restriction recorded against the property, imposing all of the Special Conditions contained in this staff report as restrictions on the property.

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## APPENDICES

Appendix A - Substantive File Documents

## EXHIBITS

Exhibit 1 - Vicinity Map
Exhibit 2 – Site Plan

# I. MOTION AND RESOLUTION

**Motion:**

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

# 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. Water Quality, Drainage and Landscaping Plans.**

A. The applicant shall undertake development in accordance with the drainage and run-off control plan received by Commission staff on May 28, 2019, showing that roof and surface runoff will be captured with a trench drain and an on-site drainage system that connects to the municipal storm drain system. 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 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. 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.

**2. Encroachments**

A. An approximately 150 square-ft. patio, which extends approximately 5 ft. into the public right-of-way, for approximately 30 ft. along the width of the seaward property line, is the only development allowed by this Coastal Development Permit (5-19-0405) in the City of Hermosa Beach Oceanfront Encroachment Area, at 1918 The Strand, as shown in **Exhibit 2**. Any development in the oceanfront public right-of-way, including additional improvements, repairs, and maintenance, cannot occur without an amendment to this coastal development permit or a new coastal development permit from the Coastal Commission, unless the Executive Director determines through written confirmation that no amendment or new permit is legally required.

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

**3. 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.

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

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

**6. Future Development.** This permit is only for the development described in coastal development permit (CDP) No. 5-19-0405. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions that would otherwise be provided in Public Resources Code (PRC) Section 30610(a) shall not apply to the development governed by CDP No. 5-19-0405. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP No. 5-19-0405 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP No. 5-19-0405 from the Commission or an additional CDP from 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).

**7. 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, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law. The applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage, foundations, permitted encroachments, and patio if: (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust boundary; (d) removal is required pursuant to LCP policies for sea-level rise adaptation planning; or (e) the development would require a shoreline protective device that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP to prevent a-d above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

8. **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 LOCATION & DESCRIPTION

The applicant is proposing to demolish a 2,381 sq. ft. single-family residence and construct a 3,987 sq. ft., 30-ft. high, three-story single-family residence with a ground-level patio and attached two-car garage **(Exhibit 2)**. Non-invasive, drought tolerant landscaping is proposed for the project. The proposed grading includes 248 cubic yards of cut.

The subject site is a beachfront lot located within a developed urban residential area approximately 0.4 miles north of the Hermosa Beach Pier, between the first public road and the sea **(Exhibit 1)**. The project site is designated in the certified LUP as a medium-density residential lot, and is zoned Medium Density Residential (R-2B). The R-2B zone allows single-family residences, a two-family residential dwelling[1], or condominium developments. The subject lot is 2,370 sq. ft. in size and is located on the inland side of The Strand – an improved 26 ft. wide public right-of-way that separates the residential development from the public beach. The Strand extends for approximately 4 miles, from 45th Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). Approximately 20 feet of The Strand is developed with a paved multi-use path used by both residents and visitors for recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. Approximately the inland 5-6 feet of The Strand is covered by private encroachments constructed by adjacent homeowners pursuant to the City's encroachment permit program. The nearest vertical public access to the beach is available via the public right-of-way at the western end of 19th Street, located 116 feet north of the site.

A majority of the development adjacent to The Strand is developed with single-family and multi-family residences ranging in size from 2,400 square ft. to 3,700 square ft. The residences in the immediate area surrounding the project site are primarily 3-story, 30 ft.-high single-family residences. The proposed 30-ft. high, 3,987 sq. ft. single-family residence is of a similar mass, scale, and density as other properties in the project vicinity. Therefore, the proposed project is compatible with the community character of the area. As conditioned the development conforms to Sections 30250 and 30251 of the Coastal Act.

### Coastal Hazards

Section 30253 states, in relevant 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.*

[1] According to the Municipal code, if a two-family residential dwelling is constructed in the R-2B zone, it must be designed for families as a duplex or condominium.

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

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

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

***Sea-level Rise***

Sea-level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea-level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea-level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea-level from space indicate an average global rate of sea-level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.[2] 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. On November 7, 2018, the Commission adopted a science update to its Sea-Level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea-level rise risks to the development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, "to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development." The most recent projections in the statewide sea-level rise guidance indicate that sea levels in this area may rise between 5.5 and 6.8 ft. 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.[3] 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), the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

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

On the California coast, the effect of a rise in sea-level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm

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

[3] This range of sea-level rise reflects the low emissions scenario and high emissions scenario for a site located within the Santa Monica NOAA tide gauge and a medium-high risk aversion. According to the updated OPC guidance, the medium-high risk aversion scenario should be used when determining a residential structure's vulnerability to sea-level rise hazards.

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

The City of Hermosa Beach completed an initial sea-level rise vulnerability assessment in 2014.[4] 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

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

global sea-level rise projections, but also by uncertainty related to the long-term effectiveness and feasibility of sand replenishment,[5] as well as the potential for changes in coastal management approaches within the littoral cell, which could significantly impact sediment transport in the area. Future impacts from sea-level rise may include not only increased hazards at the project site, but also loss of public beach area within the City. These impacts will be further evaluated and addressed in the City's LCP planning process, which is currently underway, with the benefit of two LCP grants from the Commission.

***Coastal Hazards Application to this Project***

The applicant has submitted a Coastal Hazard and Wave Runup Study dated April 22, 2019 prepared by Geosoils, Inc. for the subject project. The study concludes that because there is a wide sandy beach **(**approximately 500 feet wide) between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. The report finds that this holds true even for an estimated sea-level rise ranging from 1.25 ft. to 6 ft. However, as stated above, the most recent projections in the statewide sea-level rise guidance indicate that sea levels in this area may rise between 5.5 and 6.8 ft. by the year 2100, and 6.8 feet of sea level rise was not analyzed in the applicant's hazards analysis. In addition, these projections have a level of uncertainty, as beaches are dynamic areas and our understanding of climate change and sea-level rise is constantly evolving. Therefore, the proposed new development, as a beachfront property, may be threatened by sea-level rise at some point in the future and require a shoreline protection device, if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area.

Commission staff has reviewed the submitted coastal hazards analysis and has utilized the USGS Coastal Storm Modeling System (CoSMoS) to analyze the project site's vulnerability to coastal hazards assuming that 6.8 feet of sea level rise occurs by 2100 (the medium-high risk aversion scenario in the Commission's sea level rise guidance). Based on the site conditions, beach erosion and wave uprush events will not significantly impact the proposed development given the current width of the public beach. The flood maps also show that the subject site is not likely to flood over the next 75 years under a 6.6 ft. sea-level rise scenario and a 100 year storm scenario.[6] This was determined using the "Flood Potential" model, which utilizes spatially variable elevation data to display the minimum and maximum flooding possible. 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.

However, despite the fact that the applicant's analysis and the best available science found the project to be at minimal risk from sea level rise and storm damage, development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. 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 Commission imposes **Special Condition 4** to require the applicant to assume the risks

[5] 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.

[6] The CoSMoS modeling tool has a limited range of sea-level rise scenarios to choose from. The 6.6 feet sea-level rise scenario was the closest available approximation to the 6.8 foot scenario recommended under the Commission's sea-level rise guidance.

and waive the rights to a shoreline protective device. 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 7.** Further, the landowner must remove the development if (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust boundary; (d) removal is required pursuant to LCP policies for sea-level rise adaptation planning; or (e) the development would require a shoreline protective device to prevent a-d above that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP (once an LCP is certified for the City of Hermosa Beach). This condition recognizes that the applicant's consultant has found that the site is currently expected to be safe, while also recognizing that predictions of the future of sea-level rise, flooding, and their impacts in Hermosa Beach, cannot be made with certainty. Thus, **Special Condition 4** 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.

**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 relevant 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: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

The first floor of the proposed development is set back 5 feet from the seaward property line and the upper floors are set back 3 feet from the seaward property line, which is consistent with the Hermosa Beach setback requirements. Although Hermosa Beach's setback requirements are not the

standard of review for this permit, they provide guidance regarding the project's consistency with Coastal Act Chapter 3 public access policies. The five-foot minimum setback creates a buffer between the landward edge of The Strand public access way and the beginning of the private structure. Therefore, the public is able to recreate throughout The Strand without the illusion that they are walking on private property. In addition, the current width of the beach and the additional setback for the property provides adequate room for adaptive measures (i.e. sandbags, barriers) on the property in the event that wave uprush does reach the property within the life of the structure without impacting public access (i.e. placement of sandbags along the public portion of The Strand). To ensure that the required setback is maintained, the Commission imposes **Special Condition 5**, requiring that the structure adheres to a minimum 5 foot setback from the seaward property line.

An approximately 150 sq. ft. portion of the patio and a 42 inch high wall currently encroach 5 feet into the public right-of-way at the seaward side of the property. The area of the patio encroachment is currently privately developed and is used in tandem with the portion of the patio that is located entirely within the private property. The encroachment area is under a separate lease agreement, and is subject to review, approval, and revocation by the City of Hermosa Beach Public Works Department. The applicant is proposing to add landscaping within the encroachment area. The proposed encroachment is consistent with previously issued coastal development permits in the area, and would not impact public access along the public portion of The Strand directly in front of the project site. Therefore, the proposed project would continue to provide public coastal access along the Strand, consistent with Coastal Act Sections 30210, 30211, and 30212.

With future sea-level rise or an increase in 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 and to make clear that such encroachment permit is revocable by the City of Hermosa Beach Public Works Department, the Commission imposes **Special Conditions 2 and 3** regarding the applicant's rights and obligations related to the encroachment.

**Water Quality**

The project includes a system to manage and increase on-site percolation of runoff, including a trench drain and downspouts that would direct runoff flow to a storm drain located on Beach Avenue using a sump pump. In addition, landscaped planters and permeable pavement will work to capture storm runoff through natural percolation. An onsite cistern would also be constructed onsite to collect and store storm water. Best management practices to avoid spills or transmission of contaminants will also be incorporated throughout the course of construction.

The applicant is proposing new landscaping planters along the south and west sides of the new single-family residence. According to the project plans, the proposed plantings are non-invasive and drought tolerant. This is consistent with previous Commission action pertaining to water quality and landscaping.

To ensure that the project's consistency with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health, the Commission imposes Special Condition 1 requiring the project to conforms to the landscaping, drainage and run-off control plans received on May 28, 2019.

**Future Development**

The project has been designed and conditioned to be consistent with the relevant Coastal Act Chapter 3 policies. However, the project's location adjacent to the beach may cause adverse impacts to coastal views and public access. Section 13250 of the Title 14 California Code of Regulations (CCR) states that internal floor area additions that are less than 10 percent of the current structure's floor area, and height increases of less than 10 percent of the current structure's height, are exempt from permit requirements, given that the structure is between the beach and the first public access road parallel to the beach. However, for the residences adjacent to The Strand, even minimal increases in height or floor area have the potential to impact public beach access routes or close off view corridors from public viewing areas. Therefore, the Commission imposes **Special Condition 6**, requiring the applicant to submit a new CDP application or amendment application for any future improvements, even those improvements that would normally be exempt from permit requirements under Section 13250 of the Title 14 CCR.

## B. 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 a condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive 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.

## C. LOCAL COASTAL PROGRAM (LCP)

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.

## D. 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. On May 21, 2019, 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 conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## Appendix A - Substantive File Documents

City of Hermosa Beach Certified Land Use Plan; City of Hermosa Beach Approval-in-Concept, dated May 21, 2019; Coastal Development Permit Application File No. 5-19-0405; Coastal Hazard and Wave Runup Study, 1918 The Strand, Hermosa Beach, April 22, 2019 prepared by Geosoils, Inc. of Carlsbad, California