

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071
FAX (562) 590-5084



Th12a

Appeals Filed: 04/06/2020
08/11/2020
49th Day: 10/20/2020
Staff: M. Revell-LB
Staff Report: 09/21/2020
Hearing Date: 10/08/2020

STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE & DE NOVO

Appeal Numbers: **A-5-MNB-20-0020 & A-5-MNB-20-0041**

Applicant: **Corinna Cotsen 1991 Trust**

Agent: Sherman Stacey, Gaines and Stacey, LLP

Local Government: City of Manhattan Beach

Local Decision: Approval with Conditions

Appellants: Commissioners Linda Escalante and Mike Wilson

Project Location: 1312 and 1316 The Strand, Manhattan Beach, Los Angeles County (APN(s) 4179-026-007 & 4179 026-008)

Project Description for A-5-MNB-20-0020:

Development Permit No. CA 19-21 for demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots resulting in the loss of three residential units, and construction of a 9,920 sq. ft. two-story over basement, single-family residence with an attached 845 sq. ft. three-car garage across both lots with a combined total area of 6,287 sq. ft.

Project Description for A-5-MNB-20-0041:

Development Permit No. CA 19-21 for demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots resulting in the loss of three residential units, and construction of

A-5-MNB-20-0020 & A-5-MNB-20-0041 (Corinna Cotsen 1991 Trust)
Appeal – Substantial Issue & De Novo

a 9,920 sq. ft. three-story, single-family residence with an attached 845 sq. ft. three-car garage. Merger of the two existing adjacent lots (1312 The Strand is 2,987 sq. ft. and 1316 The Strand is 3,300 sq. ft.) into one 6,287 sq. ft. lot.

Staff Recommendation: Determine that a substantial issue exists and deny the de novo application.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

The Commission will not take testimony on the “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, appellant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which both appeals have been filed for the following reason: the project, as approved by the City of Manhattan Beach, is inconsistent with the intent of the high-density residential land use designation of the certified LCP. Staff also recommends that, after a public hearing, the Commission deny the de novo permit application.

There was a previous Notice of Final Action (NOFA) for the project that was appealed by two members of the Commission (Appeal No. A-5-MNB-20-0020). Subsequent to staff posting the staff report for Appeal No. A-5-MNB-20-0020, in which staff recommended that the Commission determine that a substantial issue exists with respect to the grounds of the appeal, the applicant requested a postponement of the appeal hearing. The City then revised the previously approved project and re-issued the same local coastal development permit but included a lot merger, which was previously not included in the local coastal development permit. A new NOFA was then sent to the Commission for the same local coastal development permit, albeit with a new project description that included the lot merger. The updated local coastal development permit does not in any way address the resource protection issues raised by the previous appeal. Moreover, the new revised project raises all the previous issues and grounds for appeal while simply clarifying that the lot merger, which the previous appeal noted was inconsistent with the LCP, is part of the approved project (Appeal No. A-5-MNB-20-0041). Therefore, the new action by the City continues to raise the same issues as the original action by the City as discussed in more detail below.

The City’s first action on Local Coastal Development Permit No. CA 19-21 authorized demolition of an existing 1,568 sq. ft. single-family residence on one lot and the demolition of an existing 2,556 sq. ft. triplex on an adjacent lot, and construction of a 9,920 sq. ft.

three-story, single-family residence (two stories over basement), with an attached 845 sq. ft. three-car garage over both lots. Although a lot consolidation was not included in the project description of the original Local Coastal Development Permit No. CA 19-21 approved on January 7, 2020, the City's Revised Coastal Development Permit *Nunc Pro Tunc*, approved on March 3, 2020, did include a lot merger as part of the project description resulting in one 6,287 sq. ft. lot (2,987 (1312 The Strand) + 3,300 (1316 The Strand)). The City-approved project would result in a net loss of three residential units and one RH – High Density Residential lot.

The intent of the RH land use designation is to promote density through the construction of multi-family structures. Development of 1-5 units on RH properties is permitted by right and density of 6+ units is allowed with a Precise Development Plan or Site Development Permit. The City-approved project is not consistent with the intent of the high-density residential land use designation of the certified LCP and, in addition, is out of character with the general pattern of surrounding residential development with regard to density, building scale, and lot size. The City's certified implementation plan allows a minimum of one unit per lot for RH designated properties; thus the minimum density of the in situ area of the entire project site is two full residential units. The merger of the two lots facilitates a larger, less dense development pattern than what is contemplated in the Commission-certified LCP. Additionally, the City-approved single-family residence is significantly larger than the surrounding residential development and is out of character with the general pattern of multi-family buildings in the immediate vicinity.

Therefore, as approved by the City, the project raises a substantial issue, and is furthermore inconsistent with the zoning and residential development policies of the certified LCP. The motions to adopt staff's recommendations can be found on **Pages 6 and 16.**

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE6
II. APPELLANTS’ CONTENTIONS7
III. LOCAL GOVERNMENT ACTION7
IV. APPEAL PROCEDURES.....8
V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE 10
 A. PROJECT DESCRIPTION AND LOCATION..... 10
 B. LOCAL COASTAL PROGRAM CERTIFICATION 10
 C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS 11
 D. SUBSTANTIAL ISSUE ANALYSIS..... 11
VI. MOTIONS AND RESOLUTIONS – DE NOVO PERMIT..... 16
VII. FINDINGS AND DECLARATIONS – DE NOVO 16
 A. PROJECT DESCRIPTION..... 17
 B. DEVELOPMENT 17
 C. COMMUNITY CHARACTER 19
 D. PROJECT ALTERNATIVES 19
 E. WATER QUALITY 20
 F. LOCAL COASTAL PROGRAM21
 G. CALIFORNIA ENVIRONMENTAL QUALITY ACT_..... 22

EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Project Plans
- Exhibit 3 – Local CDP No. 19-21
- Exhibit 4 – Appeal A-5-MNB-20-0020
- Exhibit 5 – Local CDP No. CA 19-21 *Nunc Pro Tunc*
- Exhibit 6 – Appeal A-5-MNB-20-0041
- Exhibit 7 – City of Manhattan Beach Urgency Ordinance 19-0020-U, dated 12/17/19.

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion I:

I move that the Commission determine that Appeal No. **A-5-MNB-20-0020** raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution I:

The Commission hereby finds that Appeal No. **A-5-MNB-20-0020** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Motion II:

I move that the Commission determine that Appeal No. **A-5-MNB-20-0041** raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in the Commission proceeding to conduct a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution II:

The Commission hereby finds that Appeal No. **A-5-MNB-20-0041** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

A-5-MNB-20-0020

The Commission received a Notice of Final Local Action (NOFA) for City of Manhattan Beach Local CDP No. CA 19-21 on March 23, 2020. Local CDP No. CA 19-21 approved the demolition of an existing single-family residence and an existing non-conforming triplex on two adjacent lots, and construction of a three-story, single-family residence with an attached three-car garage across both lots ([Exhibit 3](#)). On April 6, 2020, an appeal was filed by Commissioners Escalante and Wilson ([Exhibit 4](#)). The appellants contend that the City's approval does not comply with the City's certified LCP. More specifically, the appellants raise the following concerns with the City-approved development:

- 1) The Local CDP did not include approval of the lot merger, which results in development of less than one structure per lot if approved, which is inconsistent with the intent of the high-density residential land use designation of the certified LCP;
- 2) The approved single-family residence is out of character with the general pattern of surrounding residential development with regard to density, building scale, and lot size.

A-5-MNB-20-0041

After the staff report was published, but before the scheduled hearing on June 4, 2020, the applicants waived the 49-day deadline for Commission action on the appeal and requested a postponement of the Commission hearing. The City then revised the previously approved project to incorporate the lot merger, (while not withdrawing or rescinding the previous application) and submitted a new Notice of Final Action (NOFA) to the Commission. On August 11, 2020, an appeal was filed by Commissioners Escalante and Wilson, raising the following concerns:

- 1) The lot merger would facilitate a larger, less dense development pattern which is inconsistent with the intent of the high-density residential land use designation of the certified LCP;
- 2) The approved single-family residence and resulting lot size is out of character with the general pattern of surrounding residential development with regard to density, building scale, and lot size.

III. LOCAL GOVERNMENT ACTION

On January 7, 2020, the City of Manhattan Beach approved the coastal development permit application for the demolition of a single-family residence and a legal nonconforming triplex and construction of a new, three-story, single family residence with attached three-car garage. ([Exhibit 2](#)).

The City determined that the project was categorically exempt from the California Environmental Quality Act (CEQA) under Section 15303 'New Construction or Conversion

of Small Structures’, as the proposed construction consists of one single-family residence.

On March 23, 2020, the Coastal Commission’s South Coast District Office received a valid Notice of Final Action (NOFA) for Local CDP No. CA 19-21. The Commission issued a Notification of Appeal Period on March 25, 2020. On April 6, 2020, Commissioners Escalante and Wilson filed the appeal during the ten (10) working day appeal period ([Exhibit 4](#)). No other appeals were received. The City and applicant were notified of the appeal by Commission staff in a letter also dated April 6, 2020.

As discussed above, after the staff report was published on May 21, 2020, but before the scheduled hearing, on June 4, 2020, the applicants waived the 49-day deadline for Commission action on the appeal and requested a postponement of the Commission hearing. The City then revised the previously approved local CDP to incorporate the lot merger (while still not withdrawing or rescinding their previous application). The Commission received a new Notice of Final Action (NOFA) for City of Manhattan Beach Local CDP No. CA 19-21c on July 29, 2020. On August 9, 2020, Commissioners Escalante and Wilson filed an appeal during the ten (10) working day appeal period ([Exhibit 6](#)). No other appeals were received. The City and applicant were notified of the appeal by Commission staff in a letter dated August 11, 2020.

IV. APPEAL PROCEDURES

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development approved by cities or counties may be appealed if it is located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of

the top of the seaward face of any coastal bluff.

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea and within 300 feet of the inland extent of any beach. The issues raised in the subject appeal, on which the Commission finds there is a substantial issue as described further below, apply to proposed development located in the appeals area.

Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1):

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

Section 30625(b)(2) of the Coastal Act requires a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a). If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the Commission will proceed to the de novo portion of the public hearing on the merits of the project. A de novo review of the merits of the project uses the certified LCP as the standard of review. (Section 30604(b).) In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act. (Section 30604(c).) Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission, by a vote of 3 or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will immediately follow, during which the Commission will take public testimony.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. Project Description and Location

The City of Manhattan Beach approved the demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. legal nonconforming triplex on two adjacent lots owned by the same applicant, and construction of a 9,920 sq. ft., 30-foot high, two-story over basement, single family residence with an attached 845 sq. ft. three-car garage, and merger of the two existing adjacent lots (1312 The Strand is 2,987 sq. ft. and 1316 The Strand is 3,300 sq. ft.) into one 6,287 sq. ft. lot ([Exhibit 2](#)). The current configuration of the existing residential units on the lots consist of a three-unit triplex at 1312 The Strand, which is comprised of (2) two bed, 2 bath units (upper and lower along on the Strand) and (1) one bed, one bath unit over the garage fronting the alley with six on-site parking spaces, and a 1,568 sq. ft single-family residence at 1316 The Strand with two onsite parking spaces. In total, the existing lots currently provide 4 residential units. The City-approved project would result in a net loss of three residential units and one Residential High Density designated lot. The triplex at 1312 The Strand is a legal non-conforming structure because it does not meet current development standards for open space requirements.

The project site is located in an urbanized neighborhood within Area District III (Beach Area) of the City of Manhattan Beach and is zoned Residential High-Density (RH) under the Certified LCP. The project site consists of two adjacent rectangular shaped, ocean-fronting lots located at 1312 and 1316 The Strand; the lots are 2,987 sq. ft. and 3,300 sq. ft., respectively ([Exhibit 1](#)). The site is located along The Strand, which is a 12-ft. wide paved public walkway between the ocean-fronting residences and the sandy beach and is between the first public road parallel to the sea (Ocean Drive) and the sea. Pursuant to the City's certified LCP, the project site is located in an appealable area. Public access to the beach is available via a public access stairway located at the terminus of 14th Street approximately 120 ft. upcoast of the project site.

B. Local Coastal Program Certification

The City of Manhattan Beach's Land Use Plan (LUP) was certified by the Commission in June of 1981. From 1992 through 1994, the City adopted and submitted to the Coastal Commission amendments to the LCP LUP which the Coastal Commission partially certified, pending the City's acceptance of suggested modifications to the Coastal Zoning Maps and LUP Policy Map related to designations for the El Porto area, the Metlox site, and the Santa Fe railroad right-of-way, and to certain designation titles, as well as a Coastal Access Map and text amendments to define the City's Coastal Permit jurisdiction as the land inland of the mean high tide line. The City accepted the Commission's suggested modifications, which the Executive Director determined was legally adequate, and the Commission concurred at its May 10-13th meeting in 1994, thus certifying the City of Manhattan Beach LCP. The City began issuing local coastal development permits shortly thereafter. The project site is located within the City of Manhattan Beach's certified jurisdiction and is subject to the policies of the certified LCP.

C. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.

Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

D. Substantial Issue Analysis

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project's conformity with the policies of the LCP. The appellants raise several substantial issues discussed in detail below. Therefore, staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

Contention: The Local CDP approved a lot merger that facilitates a larger less dense development pattern which is inconsistent with the high-density residential land use designation in the LCP.

The Manhattan Beach LCP includes the following relevant policies related to locating and planning new residential development in the coastal zone:

LUP Policy II.B.1 States: Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.

LUP Policy II.B.2 States: Maintain residential building bulk control established by development standards in Chapter 2 of the Implementation Plan.

Section A.12.020 of Chapter 2 of the Certified Implementation Plan (IP)

provides that single-family residences are permitted by right on RH properties and that multi-family residential development on RH properties are permitted by right to 5 or fewer units, and 6 or more units can be constructed with a Precise Development Plan or Site Specific Development Plan.

Section A.12.030 of Chapter 2 of the Certified IP dictates that the minimum lot area per dwelling unit for the RH district in Area III (Beach Area) is 850 sq. ft.

The subject lots are located within Area District III (Beach Area), and are zoned Residential High Density, or RH by the Commission-certified LCP. The intent of the RH land use designation is to promote density through the construction of multi-family structures. According to Section A.12.020 of the certified IP, RH districts are permitted by right to construct one to five units and can construct six or more units with a Precise Development Plan or Site Development Permit. As approved by the City, the project would result in the net loss of three residential units and one RH designated lot.

As stated, the minimum unit per RH designated lot is one. Therefore, the merging of two RH designated lots, reduces the in-situ density for the aggregate of the project site. This action is inconsistent with the intent of the RH zoning designation that the Commission certified as part of the City's LCP, which the Commission found, at the time of certification, was adequate to carry out the Chapter 3 provisions of the Coastal Act, including Section 30250, which speaks directly to density.

Section 30250 of the Coastal Act states, in part:

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

[Emphasis added]

Although Section 30250 of the Coastal Act is not a standard of review for this appeal, the Commission-certified LCP is. Clearly, the merging of the two RH designated lots reduces the density potential contemplated for this specific delineated area of the City by approximately half. The RH area of the City is specifically planned to house more dense development than other areas of the City. As a result, the project raises significant

questions as to the project's consistency with the LCP, which allows for and promotes density in this area through construction of multi-family structures.

Therefore, the Commission finds that the project, as approved by the City, does not conform to the LCP, and thus, this aspect of the appeal does raise a substantial issue regarding conformity of the development with those standards.

Contention: The approved lot merger and single-family residence is out of character with the general pattern of surrounding residential development with regard to density, building scale and lot size.

The appellants assert that the approved single-family residence is significantly larger than the surrounding residential development and that it is also out of character with the general pattern of multi-family structures in the immediate vicinity, which is inconsistent with the LCP. Additionally, the lot merger results in a residential lot that is also significantly larger than the majority of lots in the vicinity.

Chapter II of the IP includes the following policies:

A.01.030. Purposes

The broad purposes of the Zoning Code are to protect and promote the public health, safety, and general welfare, and to implement the policies of the Local Coastal Plan, as provided in the California Government Code, Title 7, Chapters 3 and 4 and in the California Constitution, Chapter 11, Section 7. More specifically, the Zoning code is intended to:

A. Provide a precise guide for the physical development of the Coastal Zone in order to:

1. Preserve the character and quality of residential neighborhoods consistent with the character of the two area districts of the Coastal Zone;
2. Foster convenient, harmonious, and workable relationships among land uses; and
3. Achieve progressively the arrangement of land uses described in the Local Coastal Plan.

A.12.010 Specific Purposes (Residential Districts) In addition to the general purposes listed in Chapter A.01; the specific purposes of residential districts are to:

- A. Provide appropriately located areas for residential development that are consistent with the Local Coastal Plan and with standards of public health and safety established by the City Code.

- B. Ensure adequate light, area, privacy, and open space for each dwelling and protect residents from harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects.
- C. Protect adjoining single-family residential districts from excessive loss of sun, light, quiet, and privacy resulting from proximity to multifamily development.
- D. Encourage reduced visual building bulk with effective setback, height, open space, site area, and similar standards, and provide incentives for retention of existing smaller homes. Include provision for an administrative Minor Exception procedure to balance the retention of smaller older homes while still allowing for flexibility for building upgrades below the minimum allowable square footage.

The locally-approved project would result in the replacement of a 1,568 sq. ft. single-family residence and a 2,556 sq. ft. triplex with a new 9,920 sq. ft. single-family residence. In addition, the City-approved lot merger would result in the loss of one RH designated lot as the two existing RH designated lots would form one 6,287 sq. ft. RH designated lot.

Of the 17 ocean-fronting parcels on the block to the north, on the subject block, and on the block to the south (The Strand between 15th and 12th Streets) there are 11 multi-family structures ranging from two to four units and only six single family residences. Comparatively, the majority of the surrounding structures in the immediate vicinity are multi-family structures, and single-family residences are less prevalent. Moreover, the locally approved merger of the two separate lots would result in a combined total lot size of 6,287 sq. ft., which is larger than 16 of the 17 parcels on this block, including parcels that currently house multi-family structures. Thus, the lot size is also out of character with the general pattern of development in this location.

Therefore, the size of the proposed structure, the use of the two sites for one single family residence, and the resulting large lot size would be inconsistent with the community character as it would facilitate a larger, less dense development pattern than what is intended by the RH designation in the Commission-certified LCP.

Finally, although Local CDP No. CA-19-21 states on page two of the permit that “written findings are required for all decisions on Coastal Development Permits” and that “such findings must demonstrate that the project, as described in the application and accompanying material or as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program”, the City made the determination that the project conformed with the above policies of the certified LCP, but provided no rationale for these conclusions ([Exhibit 3 & 5](#)). The City has the authority and responsibility to impose conditions as necessary to ensure consistency with the certified LCP, but it did not fully do so in this case.

Therefore, the Commission finds that the project as approved by the City does not conform to the LCP and thus, this aspect of the appeal does raise a substantial issue regarding conformity of the development with those standards.

SUBSTANTIAL ISSUE FACTORS:

Under section 13115(c) of the Commission's regulations, the Commission considers five factors in determining whether an appeal raises a substantial issue pursuant to Section 30625(b)(2):

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP.

The City's findings state that the project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. B. 1, 2, and 3, which require planning of coastal residential development to maintain building scale and bulk control, but do not include discussions of how the project preserves and protects residential density in a high-density residential zone, and do not address community character relative to the zoning designation of the project site. The City did not substantially support its approval of the project as consistent with all of the applicable policies of the certified LCP, in fact, the City's findings are primarily conclusions and do not explain the City's decision. Therefore, there is a low degree of factual and legal support for the local government's decision that the project, as conditioned, is consistent with the LCP, and this factor supports a substantial issue finding.

2. The extent and scope of the development as approved or denied by the local government.

As addressed above, the density, mass, and scale of the City-approved single-family structure on one consolidated lot that is larger than the vast majority of lots in the area, is out of character and inconsistent with the surrounding development. More importantly, the scope of the City-approved development results in the loss of a lot that is specifically designated for high density development in order to create one much larger lot for one single-family home, thereby reducing potential residential density by approximately half and actual residential density by 75%. Thus, the scope of the project raises a substantial issue.

3. The significance of the coastal resources affected by the decision. The subject site is two oceanfront lots designated as residential high density. As discussed, the City-approved project would result in the actual loss of three residential units and reduce development potential, with regard to density, by approximately half. The loss of residential units and parcels in a developed urbanized area specifically intended for multi-family and higher density use could have significant cumulative impacts on housing and development in the coastal zone, which in turn, could encourage development in other less developed parts of the coastal zone that are not appropriate for it, or in hazardous areas, which could have significant impacts on coastal resources. This factor supports a finding of substantial issue.

4. The precedential value of the local government's decision for future interpretations of its LCP. As discussed above, the land use on the subject site is RH, which is High Density Residential. The intent of the RH land use designation is to promote density through the construction of multi-family structures. Permitting the demolition of four units on two high-density lots and the merging of the two high-density lots into one lot, which would be developed with one single-family residence is not consistent with the intent of the

RH designation, as described. Thus, this factor supports a finding of substantial issue.

5. Whether the appeal raises local issues, or those of regional or statewide significance.

The State Legislature has acknowledged that California is facing a severe housing crisis, and that current and future demands are exceeding the availability of housing units. Therefore, the City's approval of the demolition of a triplex and a single-family residence on two lots to construct one single-family residence on one consolidated lot raises issues of regional and statewide significance.

Conclusion

In conclusion, staff recommends that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the policies of the City's certified LCP.

VI. MOTION AND RESOLUTION – DE NOVO PERMIT

Motion I:

I move that the Commission **approve** Coastal Development Permit No. **A-5-MNB-20-0020** for the development proposed by the applicant.

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution I:

The Commission hereby denies Coastal Development Permit No. **A-5-MNB-20-0020** for the proposed development on the ground that the development will not conform with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

Motion II:

I move that the Commission **approve** Coastal Development Permit No. **A-5-MNB-20-0041** for the development proposed by the applicant.

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution II:

The Commission hereby denies Coastal Development Permit No. **A-5-MNB-20-0041** for the proposed development on the ground that the development will not

conform with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

VIII. FINDINGS AND DECLARATIONS – DE NOVO

Note: The Findings and Declarations in the Substantial Issue section of this staff report are hereby adopted by reference into the Findings and Declarations for the De Novo Permit.

A. PROJECT DESCRIPTION

The project description and location are hereby incorporated by reference from Section A of the Substantial Issue portion of this staff report on page 10.

B. DEVELOPMENT

Relevant certified Manhattan Beach LCP policies are hereby incorporated by reference from Section D of the Substantial Issue portion of this staff report on pages 11 and 12.

The state is currently experiencing a housing supply shortage of approximately 90,000 units on a yearly basis¹. Specifically, within the Commission's appealable area of the City of Manhattan Beach (**Exhibit 8**) between 2009 and 2019, approximately 45 residential units were approved to be demolished by replacing multi-unit structures with single-family residences or structures with fewer residential units (e.g. converting triplexes to duplexes) through the approval of local CDPs.² Housing shortages throughout the state have been met with growing efforts to address and improve availability. For example, on January 1, 2020, the Housing Crisis Act of 2019 (Senate Bill 330 (Skinner)) took effect with the goal of increasing housing stock. The Housing Crisis Act prohibits an affected city or county from approving a housing development that will require the demolition of occupied or vacant residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished (no net loss). However, the applicant submitted the local CDP application for this project to the City on October 21, 2019, prior to the effective date of SB 330, which was January 1, 2020. Thus the new state law does not apply to this project. Furthermore, the Housing Crisis Act does not amend the Coastal Act and is not the standard of review for the subject project. However, the new state law is relevant because projects resulting in a loss of housing units and density potential, such as the case here, have significantly contributed to the current housing shortage in the state, which compelled the Legislature to enact housing laws such as SB 330. The Housing Crisis Act and other recently adopted housing laws are reflective of a statewide policy to encourage and increase housing throughout the state, which may impact coastal resources in the coastal zone if it is not well-planned or undertaken with coastal resource protection in mind. Thus, while not a standard of review, it's important to consider the current housing situation and

¹ Dahdoul, Ahmad, et. al. 7 May 2017. " *Building California's Future: Increasing the Supply of Housing to Retain California's Workforce*". USC Price. Pp. 3-4. <https://cfce.calchamber.com/wp-content/uploads/2017/06/CFCE-Building-Californias-Future-Final-Report-May-7-2017.pdf>.

² Based on Notices of Final Action from the City of Manhattan Beach from 2009 to 2019.

the high-density designation of the subject lots when considering whether the proposed development is consistent with the intent of the high-density designated lots. Moreover, as a result of the statewide housing crisis, it is becoming increasingly important to maintain and concentrate development in already developed and appropriate areas in order to ensure that coastal resources are protected.

As discussed above, the proposed project would result in a net loss of three residential units and one residential lot designated for high density development. Although the City's LCP currently lacks robust policies that would explicitly prohibit the loss of residential units, it does contain zoning and land use designations designed to promote and maintain density and community character.

Within Manhattan Beach, the coastal zone only extends approximately six to eight blocks inland of the beach. Within this small area of the City, with the exception of a few lots, most all of the lots zoned for residential use are either zoned Medium or High Density. Most all of the single-family/low density zoned lots within the City are outside of the coastal zone. Thus, the character of residential development within the coastal zone of the City is primarily multi-family/higher density, especially near the pier, where the subject lots are located.

The subject lots are located within Area District III (Beach Area), and are zoned Residential High Density, or RH, and designated High Density Residential in the City's certified LCP. The intent of the RH land use designation is to promote density through the construction of multi-family structures. Section A.12.020 of the certified IP states that RH districts are permitted by right to construct one to five units and can construct six or more units with a Precise Development Plan or Site Development Permit. The RH area of the City is specifically planned to house more dense development than other residential areas in the City. Thus, because other areas, specifically those without the RH land use designation, restrict density, as described, it is appropriate to maintain and even increase density in areas with the RH designation.

As discussed in the substantial issue section of this report and restated above, the minimum unit per RH designated lot is one unit. Therefore, in this case, the merging of two RH designated lots essentially circumvents the density requirements prescribed by the RH designation in the certified LCP to allow 0.5 units on the current (prior to merger) lot, instead of one, thereby achieving a lower density than is specified by the Commission-certified LCP and originally planned for in this area.

Not only does the proposed project reduce the density potential prescribed in the Commission-approved LCP by approximately half, it reduces actual residential density by 75% by demolishing a triplex and a single-family residence and replacing them with one new large single-family residence across the entire site, which consists of two lots. While the RH designation allows for the construction of a single-family residence on a lot, the policy specifically calls for "more intense form[s]" of development not less intense development. In this case, while two single-family residences could be found consistent with the certified LCP (one on each lot), one single-family residence across both lots is not.

Therefore, the development proposed by the applicant as approved by the City does not conform to the residential development policies of the certified LCP in the coastal zone.

C. COMMUNITY CHARACTER

Relevant certified Manhattan Beach LCP policies are hereby incorporated by reference from Section D of the Substantial Issue portion of this staff report on pages 12 and 13.

The proposed project raises issue with regard to the community character policies of the Certified LCP. In this case the applicant is proposing to replace one triplex and one single-family residence (four residential units in total) with one new residential unit on a relatively large lot. By removing a 3-unit multi-family structure on one lot and permanently removing one high-density residential lot through the lot merger, the project would effectively encourage downzoning in an area that has been designated for high-density development by the City, including multi-family residential development.

The project site is located in an urbanized neighborhood developed with two- and three-story residential structures up to 30 ft. in height. Of the 17 ocean-fronting parcels on the block to the north, on the subject block, and on the block to the south (The Strand between 15th and 12th Streets) there are 11 multi-family structures ranging from two to four units and only six single family residences. Comparatively, the majority of the surrounding structures in the immediate vicinity are multi-family structures, and single-family residences are less prevalent. Although single-family residences may be, and have been, developed on the RH zoned lots, it is evident that the City intended for the area surrounding the project site to accommodate multi-family residential development.

Furthermore, the locally approved merger of the two separate lots would result in a combined total lot size of 6,287 sq. ft., which is larger than 16 of the 17 parcels on this block, including those that are developed with multi-unit structures. Thus, the lot size is also out of character with the general pattern of development in this location.

Approval of this development would override the intent for high density residential development of this area, which could have a cumulative, irreversible impact on the existing multi-family character planned for this area in the certified LCP. Thus, the use of the two lots for one single-family residence, and the resulting large lot size is inconsistent with the community character of the area as described by LCP policies regarding residential development. The development proposed by the applicant is therefore not consistent with the community character policies of the LCP and should be denied.

D. Project Alternatives

There are several potential alternatives to the proposed project that would be consistent with the certified LCP, including:

No project

The applicant could retain the existing nonconforming triplex and single-family residence on the two lots without structural renovations that would require a CDP. No changes to the

existing site conditions would result from the “no project” alternative. In addition, development would continue to be concentrated in an already developed area that is well-served by public transportation and public amenities.

The triplex at 1312 The Strand was constructed in 1948, and the single-family residence at 1316 The Strand was constructed in 1955 before the Coastal Act was passed. Therefore, the existing structures are 72 years old and 65 years old, respectively, which is within the anticipated life of a residential structure (structures are typically expected to last for 75 years). The applicant has not provided any information to indicate that it would not be feasible to retain the existing triplex and single-family residence. Therefore, retention of the existing structures is considered feasible, and the Commission is under no obligation to approve demolition of the existing structures based on the available information.

Construct new Multi-Family Structures

Alternatively, the applicant could demolish the existing triplex and single-family residence and construct two new duplexes on the subject lots. This alternative would retain four residential units on site or could even result in an increase in the number of units on the site.

Therefore, alternatives to the proposed project exist and denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant’s property, nor unreasonably limit the owner’s reasonable investment-backed expectations of significant economic value on the property. In addition to the two provided examples, there are certainly other options for the sites that are consistent with the certified LCP.

E. WATER QUALITY

The Coastal Marine Resources Policies in the third section of the LUP state:

The Coastal Act policies require the maintenance, enhancement, and protection of marine resources and the maintenance of the biological productivity and the quality of coastal waters. Act policies also require that coastal waters be protected against effects of wastewater discharges, entrainment, and runoff, that **ground water supplies be protected**, and that coastal resources be protected against spillage of crude oil, gas, petroleum products, or other hazardous substances (emphasis added).

The project site is located on two oceanfront lots, 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. The proposed project includes construction of a basement and a subterranean garage ([Exhibit 2](#)) The applicant has not submitted any information with regard to the location of the groundwater table in this location, where the groundwater level is in relationship to the proposed basement, or whether the basement would need to be dewatered during or after construction.

Basements and subterranean development can displace groundwater. Though this issue is not likely to be relevant in most of the coastal zone, basements can displace ground water if they extend beyond the depth of the water table in confined aquifers causing the surrounding groundwater to rise. If installed in many homes throughout a region, their cumulative impact could result in a localized rise in groundwater and flooding.

Furthermore, the proposed project does not account for changes to the groundwater level overtime that could occur with 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. 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.

Should the groundwater level rise with rising sea levels, the basement would be subject to flooding and would require permanent dewatering. Since staff does not have sufficient information as to whether the basement would be impacted by rising groundwater levels over the life of the development, or how sea level rise will impact groundwater in this location, Commission staff cannot determine whether the proposed development will protect ground water supplies as required by the certified LCP. Therefore, there is insufficient information to determine if ground water will be protected as required by the certified LUP especially in light of expected sea level rise, due to the project's inclusion of a subterranean basement and garage. Accordingly, the Commission denies the CDP application.

F. LOCAL COASTAL PROGRAM

The City of Manhattan Beach's Land Use Plan (LUP) was certified by the Commission in June of 1981. From 1992 through 1994, the City adopted and submitted to the Coastal Commission amendments to the LCP LUP which the Coastal Commission partially certified, pending the City's acceptance of suggested modifications to the Coastal Zoning Maps and LUP Policy Map related to designations for the El Porto area, the Metlox site, and the Santa Fe railroad right-of-way, and to certain designation titles, as well as a Coastal Access Map and text amendments to define the City's Coastal Permit jurisdiction as the land inland of the mean high tide line. The City accepted the Commission's suggested modifications, which the Executive Director determined was legally adequate, and the Commission concurred at its May 10-13th meeting in 1994, thus certifying the City of Manhattan Beach LCP. The City began issuing local coastal development permits shortly thereafter. The project site is located within the City of Manhattan Beach's certified jurisdiction and is subject to the policies of the certified LCP.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Manhattan Beach is the lead agency for CEQA compliance and determined the project is Categorically Exempt per Section 15303 as "New Construction or Conversion of Small Structures" as the proposed construction consists of one single-family residence.

As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is not consistent with the development policies of the Coastal Act. As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as retaining the existing development or developing multi-family structures on the two lots. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because feasible alternatives exist which would lessen significant adverse impacts that the proposed project would have on the environment. Therefore, the Commission denies the proposed project because of the availability of environmentally preferable alternatives.

In any event, CEQA does not apply to private projects that public agencies deny or disapprove. Pub. Res. Code § 21080(b)(5). Accordingly, because the Commission denied the proposed project, it is not required to adopt findings regarding mitigation measures or alternatives.