CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE 301 E. OCEAN BLVD., SUITE 300 LONG BEACH, CA 90802-4830 (562) 590-5071



Th₁₃c

5-19-1220 (Dennis) October 8, 2020

Correspondence



ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

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September 22, 2020

VIA EMAIL

Amrita Spencer CALIFORNIA COASTAL COMMISSION South Coast District Office 301 E. Ocean Boulevard, Suite 300 Long Beach, CA 90802

Re: 3205 Highland Avenue, Hermosa Beach, Application No. 5-19-1220

Dear Ms. Spencer:

I am counsel for the Applicants, George and Tallie Dennis. I write to request that the above-noted application be heard at the November 2020 hearing, instead of the currently scheduled October 2020 hearing.

I understand that the Applicants requested a 90-day statutory extension, effective September 6, 2020. That extension was granted and expires on December 5, 2020. The staff made a clerical error and initially calculated November 5, 2020 as the expiration date. As a result of this clerical error, the matter was scheduled for the October hearing (as this would be the last hearing available prior to a November 5, 2020 expiration date). With the error having now been recognized and corrected, this matter can be heard at the November hearing, well in advance of the correct December 5, 2020 expiration date.

The Applicants, through their agent Srour & Associates, have requested that this matter be postponed to the November hearing to deal with the specific options for this property recommended by the staff in their last staff report. The Applicants need the month of October to determine whether these options are feasible. The staff is recommending denial of this project on the basis that the Applicants have these additional options to develop this property. As a result,

Amrita Spencer

Re: 3205 Highland Avenue, Hermosa Beach, Application No. 5-19-1220

September 22, 2020

Page 2 of 3

the Applicants would be substantially prejudiced if compelled to attend a hearing in October without a full opportunity to investigate the very development options which staff has asked them to consider.

To be clear, the Applicants are not requesting an additional extension – they are simply requesting that this matter be moved to the next hearing date (November) within the 90 day extension period already granted.

Under the circumstances, we would appreciate it if Staff could postpone this matter to the November hearing. I can be reached directly at (310) 540-3199 and through my email below.

Very truly yours,

SPIERER, WOODWARD, CORBALIS & GOLDBERG

Attorneys at Law

A Professional Corporation

Stephen B. Goldberg

SBG:tlk

cc: Steve Hudson, District Director, South Central Coast and South Coast (via email)

Stacy Strauss, Srour & Associates (via email)

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September 30, 2020

VIA EMAIL: Amrita.Spencer@coastal.ca.gov

Amrita Spencer Coastal Program Analyst CALIFORNIA COASTAL COMMISSION South Coast District Office 301 E. Ocean Boulevard, Suite 300 Long Beach, CA 90802

Re: 3205 Highland Avenue, Hermosa Beach, Application No. 5-19-1220

Dear Ms. Spencer:

I am counsel for the Applicants George and Tallie Dennis.

It has come to our attention that the Public Hearing Notice dated September 23, 2020 for the above coastal permit Application is incorrect (the "Notice"). Please see attached Notice. The incorrect project description on the Notice states:

"Application of George & Tallie Dennis to demolish 2 story, 1,809 sq. ft. duplex and construct new 30 ft. high 3-story (over basement), 6,803 sq. ft. single-family home with attached 3-car garage, and attached 230 sq. ft. junior accessory dwelling unit."

The applicable statute requires that notice include among other things "a description of the development and its proposed location." [14 CCR, §13063(a)(2)]. The Notice does not include the correct description of the development proposed in the above-noted Application which consists of a 731 sq. ft. accessory dwelling unit, not a 230 sq. ft. junior accessory dwelling unit.

Among others, the applicant, affected cities, counties and interested persons (as defined by 14 CCR, §13054) must be provided with a compliant notice "at least 10 calendar days prior to the date on which the application will be heard by the commission." [14 CCR, §13063(a)]. Failure to provide a correct notice is grounds for revocation of a permit. [14 CCR, §13105)].

Amrita Spencer

Re: 3205 Highland Avenue, Hermosa Beach, Application No. 5-19-1220

September 30, 2020

Page 2 of 2

To ensure compliance with the statutory notice provisions above, a new corrected notice must issue and be mailed ten (10) days prior to the hearing date, October 8, 2020. As this is not possible, this Application should be moved to the November calendar to provide sufficient time for the corrected notice to be served on all interested persons in compliance with the statute. I note that there is ample time for this matter to be heard in November as the deadline to act is not until December 5, 2020.

We would appreciate receiving your confirmation that this Application will be moved to the November calendar by tomorrow, Thursday, October 1, 2020.

Sincerely,

SPIERER, WOODWARD, CORBALIS & GOLDBERG

Attorneys at Law

A Professional Corporation

Stephen Goldberg

cc: Steve Hudson, District Director, South Central Coast and South Coast

(via email at Steve.Hudson@coastal.ca.gov)

Eric Stephens, District Supervisor, (via email at eric.stevens@coastal.ca.gov)

Stacy Straus, Srour & Associates Brandon Straus, Srour & Associates

George & Tallie Dennis

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE.
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Page: 1

Date: September 23, 2020

IMPORTANT PUBLIC HEARING NOTICE COASTAL PERMIT APPLICATION

PERMIT NUMBER 5-19-1220

APPLICANT(S)

George & Tallie Dennis

PROJECT DESCRIPTION:

Application of George & Tallie Dennis to demolish 2-story, 1,809 sq. ft. duplex and construct new 30-ft. high, 3-story (over basement), 6,803 sq. ft. single-family home with attached 3-car garage, and attached 230 sq. ft. junior accessory dwelling unit.

ITEM NO: Th13c

PROJECT LOCATION:

3205 Highland Ave, Hermosa Beach, CA (APN: 4181018015)

HEARING DATE AND LOCATION:

DATE

Thursday, October 8, 2020

TIME

9:00 AM

> 100 1 ki/k

PLACE

Virtual Hearing

PHONE

(415) 905-5202

HEARING PROCEDURES:

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.

This item has been scheduled for a public hearing and vote. People wishing to testify on this matter may appear at the hearing or may present their concerns by letter to the Commission on or before the hearing date.

AVAILABILITY OF STAFF REPORT:

A copy of the staff report on this matter will be available no later than 10 days before the hearing on the Coastal Commission's website at http://www.coastal.ca.gov/mtgcurr.html. Alternatively, you may request a paper copy of the report from Amrita Spencer, Coastal Program Analyst, at the South Coast District Office.

Page: 2

Date: September 23, 2020

IMPORTANT PUBLIC HEARING NOTICE COASTAL PERMIT APPLICATION

SUBMISSION OF WRITTEN MATERIALS:

If you wish to submit written materials for review by the Commission, please observe the following:

- Submit your written materials to the Commission staff no later than 5:00 p.m. on the Friday before the hearing (staff will then distribute your materials to the Commission). Note that materials received after this time will not be distributed to the Commission.
- Mark the agenda number of your item, the application number, your name and your position in favor or opposition to the project on the upper right hand corner of the first page of your submission. If you do not know the agenda number, contact the Commission staff person listed on page 2.
- A current list of Commissioners' names and addresses is available on the Coastal Commission's website at http://www.coastal.ca.gov/roster.html. If you wish to submit materials directly to Commissioners, we request that you mail the materials so that the Commissioners receive the materials no later than Thursday of the week before the Commission meeting. You must provide Commission staff with a copy of any materials that you provide to Commissioners. Please mail the same materials to all Commissioners, alternates for Commissioners, and the three non-voting members on the Commission with a copy to the Commission staff person listed on page 2.
- You are requested to summarize the reasons for your position in no more than two or three pages, if possible.

Please note: Due to the virtual hearing, you will not be able to submit written materials to the Commission on the day of the hearing. Materials sent to the Commissioners during the hearing, unless they are visual aids, are discouraged as it is difficult for the Commission to carefully consider late materials.

ALLOTTED TIME FOR TESTIMONY:

Oral testimony may be limited to 3 minutes or less for each speaker depending on the number of persons wishing to be heard.

ADDITIONAL PROCEDURES:

The above item may be moved to the Consent Calendar for this Area by the Executive Director when, prior to Commission consideration of the Consent Calendar, staff and the applicant are in agreement on the staff recommendation. If this item is moved to the Consent Calendar, the Commission will either approve it with the recommended actions in the staff report or remove the item from the Consent Calendar by a vote of three or more Commissioners. If the item is removed, the public hearing described above will still be held at the point in the meeting originally indicated on the agenda.

No one can predict how quickly the Commission will complete agenda items or how many will be postponed to a later date. The Commission begins each session at the time listed and considers each item in order, except in extraordinary circumstances. Staff at the appropriate Commission office can give you more information prior to the hearing date.

Questions regarding the report or the hearing should be directed to Amrita Spencer, Coastal Program Analyst, at the South Coast District Office.

ATTORNEYS AT LAW
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www.practicallawyer.com

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October 2, 2020

VIA EMAIL: Amrita.Spencer@coastal.ca.gov

California Coastal Commission c/o South Coast District Office 301 East Ocean Blvd., Suite 300 Long Beach, CA 90802

Re: Application No. 5-19-1220

3205 Highland Avenue, Hermosa Beach, Los Angeles County

Hearing Date: October 8, 2020 (13c)

Response to Staff Recommendation for Project Denial

Dear Honorable Commissioners:

This office represents George and Tallie Dennis (the "Applicants"), the owners of the above-referenced property (the "Property") and the applicants in the above-referenced matter. The Applicants request a coastal development permit ("CDP") to replace an 80 year old non-conforming structure with a new single family residence and ADU ("Project"). This Project will provide two functional residences that are compliant with all municipal and state laws and consistent with the Chapter 3 policies of the Coastal Act.

The staff has recommended denial of this Project in the staff report dated September 18, 2020 ("Staff Report"), after previously recommending approval of this Project in their June 2020 staff report. Now, as in June, there is no reason to deny this Application: the evidence before the Commission illustrates that the staff's recommended denial is based on an error of law and a flawed assumption that there are alternative options available to develop this Property. For the reasons that follow, on behalf of the Applicants, we ask for your support for this Application.

A. The Existing Structure Does Not Comply With The Land Use Plan

The Property is located on a 3,300 square foot parcel (the "Lot"). The existing 80 year old structure was originally built in 1940, with two units, the smallest of which is a non-conforming

Th13c

630 sq. ft. unit.¹ Together, the two existing units have a total of four bedrooms and three baths. The building has not been substantially remodeled and as it now stands, is structurally compromised as a result of water damage, wood rot, foundation decay, deteriorated and corroded pipes, asbestos and outdated electrical wiring.²

The Property is located in a R2, medium density residential zone. In this zone, the Hermosa Beach certified LUP limits development to single family residences. As discussed below, given the requirements of the Land Use Plan ("LUP"), current building codes and the dilapidated condition of the existing structure, there is no "remodel" option and a duplex cannot be rebuilt on this Lot.

B. This Project Complies With Laws Existing At The Time This Application Was Deemed Complete

The Applicants filed their development plans with the City of Hermosa Beach in April 2019 in compliance with applicable municipal zoning and state requirements in place at the time.³ In late 2019, during contemplation of surrounding Hermosa Beach CDP applications, the Coastal Commission began recommending to local residents that where local zoning did not permit replacement of the number of units being demolished, the property owner could compensate for the loss of a unit by integrating a JADU or ADU. To address staff and Commission concerns regarding density, the Applicants voluntarily revised their project plans to include an ADU and resubmitted plans in December 2019.⁴ By including an ADU in the project design, the Applicants have maintained the number of dwelling units on this lot, despite the limits of the certified LUP.

¹ See Exhibit 1 to the Staff Report which is a diagram of the existing non-conforming unit as well as **Exhibit A** to this letter (photos).

² The most recent inspection of the home revealed a leaking ceiling, holes in the firewalls, corroded gutters, defective roof, damaged stucco, asbestos, unstable stairwells, degraded wood throughout the interior and exterior of the building, under the eaves and in the floor framing, seismically unstable foundation perimeter walls, unmounted foundation posts, stained and termite damaged framing from years of deterioration and moisture, safety hazards including outdated electrical wiring, moisture intrusion throughout the home, incorrectly installed and heavily corroded aged water pipes and drain lines, seismically unstable gas mains, malfunctioning appliances and water heater, "vintage" heating system, leaking windows, peeling vinyl flooring and cosmetically aged sinks, countertops and walls.

³ Generally speaking, this Project should be viewed by the rules that were in place at the time the Application was filed. This makes sense: an Applicant can only come before the Commission with a compliant application based on the rules and policies in place at the time. To retroactively apply policies that were not in place at the time the Applicants filed his Application and of which the Applicants had no notice, is contrary to general principles of fairness and due process and is not a genuine basis to deny the Project.

⁴ See attached <u>Exhibit B</u> to this letter: letter from Brandon Straus to Amrita Spencer. At the time, the Applicants included a JADU which was later expanded to a 731 sq ft. ADU in July 2020.

C. June 2020: The Staff Agreed There Was No Reason To Deny This Application

This Application was initially scheduled to be heard at the July 2020 Coastal Commission hearing. On June 18, 2020, the staff recommended approval of the Project in their staff report.⁵ The chronology after this point in time is as follows:

- One month later, on July 10, 2020 at the Coastal Commission hearing, the staff continued to recommend approval of the Application.⁶
- During the hearing on July 10, 2020, the Application was pulled from the consent calendar by the Commissioners' vote, with Commissioners requesting a full hearing on the nature of the Application along with a second Hermosa Beach application [1820 Manhattan Avenue (the "Wang Project")].
- * At the July 10, 2020 hearing Executive Director Ainsworth stated that the staff was "trying to get confirmation on the new [2020 ADU] laws" but this Application was one of two projects with "special circumstances" [weighting in favor of approval]. Mr. Hudson confirmed that staff recommended the Commission approve the items (both this Application and the companion Wang Project).8
- Following the hearing, the Applicants submitted a revised plan with a larger ADU to meet the Commission requests regarding ADU size.⁹
- One month later, the staff reversed course and recommended denial of the Application in their staff report dated July 24, 2020.¹⁰
- At the September hearing, the Wang Project was approved, with a 487.5 sq ft. ADU.¹¹

Comparing the June 18, 2020 Staff Report recommending approval of this Application to the current Staff Report recommending denial of the Application illustrates that **there is no reason to now deny the Application**:

⁵ See staff report dated June 18, 2020 attached as **Exhibit C.** At the time, the design was identical to the existing Project, with the exception that the Applicants included a smaller JADU (230 sq feet).

⁶ See Coastal Commission Agenda for hearing on July 10, 2020.

https://www.coastal.ca.gov/meetings/agenda/#/2020/7

⁷ See hearing transcript from hearing dated July 10, 2020.

https://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2020-09-10

⁸ See hearing transcript from hearing dated July 10, 2020.

https://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2020-09-10

⁹ As described in the Staff Report, Exhibit 2. This is the Application now before the Committee.

Staff Report dated July 24,2020 https://documents.coastal.ca.gov/reports/2020/8/W16a/W16a-8-2020-report.pdf and Addendum https://documents.coastal.ca.gov/reports/2020/8/W16a-8-2020-addendum.pdf

¹¹ See Application No. 5-20-0223, Item 19e https://www.coastal.ca.gov/mcetings/agenda/#/2020/9

Comment / Issue	June 18, 2020 Staff Report recommending approval of the Application	September 18, 2020 Staff Report recommending denial of the Application
JADUs and ADUs as valuable housing units.	Page 2 & 11: "JADUs are typically more affordable to rent because of their smaller size. With a living area less than 500 square feet, JADUs may not attract families, but are ideal for individuals or couples who may not otherwise be able to afford to rent out larger units. Overall, JADUs do accommodate individuals other than the residents of the single-family residence and should therefore be considered to be additional living units."	Page 14: ADUs do not necessarily provide a meaningful residential unit that is comparable to a unit in a duplex or MF structure and is not likely to adequately mitigate the impact of removal of a multi-family structure
Number of Housing Units provided by a JADU/ADU + SFR	Page 3: "the project, will maintain two units onsite and will furthermore provide an affordable housing opportunity for a student, individual, or couple, for example, who may not otherwise be able to afford to rent out a larger duplex unit."	[No comment]
Mitigating the Loss of a Unit (where one unit is replaced with one JADU/ADU)	Page 9: the application currently before the Commission includes the demolition of the same duplex that was previously approved to be demolished and the construction of a single family residence that, while larger than the currently approved (5-17-0283-W) single-family residence, also includes a JADU, thereby mitigating the loss of a residential unit, which the previous (and still valid) approval does not.	Page 14: ADUs do not necessarily provide a meaningful residential unit that is comparable to a unit in a duplex or MF structure and is not likely to adequately mitigate the impact of removal of a multifamily structure
Consistency with the certified LUP	Page 10: "In this case, the development of an ADU/JADU on the project site would not be inconsistent with the certified LUP."	Page 3: The certified LUP contains minimum lot size per dwelling unit development standards that allow two units on the subject site.
Application of SB330	Page 10: "the subject application is not subject to SB330 because it was filed before January 1, 2020.	Page 14: "it appears that the [Act] does not apply to this project as to the City because the Applicant

Comment / Issue	June 18, 2020 Staff Report recommending approval of the Application	September 18, 2020 Staff Report recommending denial of the Application
		submitted a complete Application to the City prior to January 1, 2020.
Compliance with the Coastal Act	Page 12: "As proposed the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards.	Page 3: "the proposed project is not consistent with Sections 30250, 30251 and 30253 of the Coastal Act because the projectdoes not concentrate development in appropriate areas that can accommodate it."
	Therefore, the Commission finds that the development conforms with Sections 30250, 30251 and 3025[3] of the Coastal Act.	Page 14: "ADUs do not necessarily provide a meaningful residential unit that is comparable to a unit in a duplex or MF structure and is not likely to adequately mitigate the impact of removal of a multi-family structure. Thus, the project as proposed with only one residential unit and an ADU is not consistent with Sections 30250 and 30253 of the Coastal Act." Page 15: "The conversion of a duplex to a single family residence in this area would continue a trend in development that is inconsistent with the overall character of the surrounding area contrary to Section 30251 of the Coastal Act."
Chapter 3 of the Coastal Act and preparation of an LCP	Page 13: "As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified	Page 19: The project is inconsistent with Chapter 3 of the Coastal Act and the certified LUP"
	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 provision of Chapter 3 of the Coastal Act.	"Approval of this project would prejudice the ability of the City to develop an LCP that is in conformity with Chapter 3 of the Coastal Act."
CEQA	Page 13: "The project as conditioned herein incorporates measures necessary to avoid significant environmental effects under the Coastal Act, and there are no less environmentally damaging feasible alternatives or mitigation measures. Therefore, the proposed project is consistent with CEQA."	Page 22: "because the Commission denied the proposed project, it is not required to adopt findings regarding mitigation measures or alternative."
JADU/ADU Size	Page 1: 230 sq ft	Page 1: 731 sq ft

There was been a clear change in staff's approach to this Application - from recommended approval to recommended denial – in a 5 week period. However, the staff was not responding to a change in the laws or policies during this time period: state laws have not changed, the Coastal Act has not changed, the municipal zoning rules have not changed and the Hermosa Beach ADU ordinance has not changed.

D. This Project Complies With The Complete Certified LUP, Which Staff Fails To Consider

In the current Staff Report, the staff states that this Project does not comply with the density standards in the Hermosa Beach 1982 Certified LUP because 'Appendix G' (also known as the 'Zoning Code') to the LUP permits two units on this lot.

The staff is wrong. Maintaining a duplex on this lot is not consistent with either the certified LUP or the uncertified local zoning code. 12

The staff's misinterpretation of the LUP results in a critical and flawed analysis of this Project. Contrary to the staff's conclusion, the Project does comply with the complete certified 1982 LUP.¹³ Specifically:

- (a) The 1982 LUP includes a 'General Plan' (also knowns as 'Appendix J') that sets a maximum density standard for Hermosa Beach. **The Project meets this standard**; and
- (b) The LUP states in plain language that where there is a conflict between the density standards in Appendix G and Appendix J, the lesser density governs.¹⁴ Here the lesser standard is Appendix J, not Appendix G.

Policy section VI C 1, "Existing Policies and Programs"

In the November 1980 election, the citizens of Hermosa Beach voted that whenever there was a conflict between the Zoning Code and the General Plan, that whichever designation had the lesser density that density should apply. The Planning Commission started hearing to resolve the conflicts beginning January of 1981. Until such time that consistency is accomplished between the General Plan and Zoning, the General Plan will guide land use decisions. ¹⁵

Thus, the real issue is why the staff does not refer to the complete certified 1982 LUP (including both Appendix G and J) in its Staff Report?

¹² See discussion that follows: The 1986 uncertified zoning code includes the same density standards as the General Plan. In 1986, the standards set out in Appendix J were incorporated into the 1986 zoning code. Therefore, although it is not certified by the Commission, the 1986 zoning code contains the exact same zoning standards set out in the 1982 LUP under Appendix J.

¹³ And the 1986 uncertified zoning code.

¹⁴ LUP, pg. 11, attached as Exhibit D.

¹⁵ LUP, pg. 11, attached as Exhibit D.

The staff's position is that the Coastal Commission can only rely on the 1982 LUP to guide its decisions, but within that document, only the density standards in Appendix G of the LUP, not Appendix J. This is illogical: the Coastal Commission certified the complete LUP, including Appendix G and J, at the same time. As acknowledged in the Staff Report: "where lots can only be redeveloped with a single family residence ("SFR") under the certified LUP," ADUs/JADUs are adequate mitigation for the projects proposing to convert duplexes to SFR in R-2 and R-3 zones. This reasoning applies equally to Appendices G and J, both parts of the certified LUP.

Of equal importance, the LUP itself clarifies which standard governs and when. Appendix G is the density standard, expressed in minimum lot size/dwelling unit, that was in place in 1981. Appendix G is a "snapshot" of what the zoning standards were in 1981. It was included in the LUP to "demonstrate inconsistencies" with the General Plan density standards in Appendix J. By comparison, Appendix J was intended as the density goal to guide long term land use decisions. ¹⁸ Zoning in future was to be made consistent with Appendix J, not Appendix G.¹⁹

For this Project, the governing density standard of the 1982 LUP is the maximum residential density standard in the General Plan (Appendix J) because the lesser density is that found in the Appendix J. Where the property is located in an R2, medium density zone, the calculation to determine the lesser density standard is as follows:

- Appendix G permits one dwelling unit/1200 sq. ft in an R2 zone.
 - o Therefore, on a 3300 sq. ft. lot, two units can be built.
- Appendix J permits 14-25 housing units per acre in a medium density zone.
 - O Therefore, on a 3300 sq. ft. lot, in a medium density zone, between 1.06 and 1.89 dwelling units can be built, calculated as follows:

```
3300 sq ft = 0.075757575 acres

0.075757575 acre x 14 units /acre = minimum of 1.06 units on the Lot

0.075757575 acre x 25 units /acre ) = maximum of 1.89 units on the Lot
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Therefore, this Project does comply with the 1982 certified LUP because it permits a maximum of one unit on this Lot (1.89 units). The SFR counts as the one unit and the ADU, by state law, cannot be deemed to exceed the maximum density permitted by the municipal zoning code.²⁰

¹⁶ See City of Hermosa Beach Letter to the Coastal Commission dated August 18, 2020, attached as **Exhibit E**. ("City Letter"), pages 3-4.

¹⁷ Staff Report, page 13.

¹⁸ See City Letter, pages 3-4.

¹⁹ See City Letter, page 4.

²⁰ As we have seen in recent hearings where Appendix G does not allow the same number of units to be built on a Hermosa Beach lot, the staff recognizes that including a JADU/ADU mitigates for the loss of a unit (see Wang Project, *infra*). By the same logic, if Appendix J does not allow the same number of units to be built on a Hermosa Beach lot, a JADU/ADU should mitigate for the loss of a unit. If there is a conflict between Appendix G and J, the LUP states that the lesser density governs.

The LUP provision, Appendix G, cited by the staff is only half the standard.²¹ Because of the staff's incomplete review, the interpretation of residential densities urged by the staff is fundamentally flawed, and reaches the wrong result. The Project conforms to the governing density standard in the certified LUP. The current non-conforming structure does not, nor does rebuilding a duplex on this Lot.

Finally, the staff misinterprets the Application by presuming that the Applicants are relying on the uncertified zoning code as justification for this Project. ²² That is not the case. The 1986 uncertified zoning code was not certified by the Commission but there is no need to refer to it here. The complete answer is found plainly in the certified LUP by looking at Appendix G and Appendix J.

E. A Duplex Cannot Be Rebuilt On This Lot

As noted above, the current non-conforming structure does not comply with the certified LUP which only permits a single family residence on this Lot. Under the current Hermosa Beach Municipal Code, the non-conforming building on this Lot is limited to a 500 sq. ft. add-on.²³ Given the age and condition of the structure as well as current building codes, any remodel would involve changes to more than 50% of the structure. To complete a remodel of this scale, the Applicants would need to file a new application with the city for approval, thereby triggering the density standards in the certified LUP.

Similarly, under the certified LUP, the City will not approve a permit to rebuild a duplex on this Lot. Given the size of this Lot, at 0.07575 acres, the Hermosa Beach certified LUP limits development to a single family residence on this Lot.

F. The 2017 Waiver Of Permit Design ("WPD") Is Not A Clear Option And Does Not Maintain Density

The staff asserts that the Applicants are within their rights to exercise the 2017 CDP Waiver of Permit (5-17-0823-W) to build a SFR without an ADU ("WPD"). The Applicants attempted to obtain confirmation that the WPD can be rebuilt given current building codes and City procedures. As of the date this submission was due, the City has not committed that the Applicants can build the WPD given the passage of time and changes to the Building Code. The Applicants also continue to await copies of the WPD from the Coastal Commission which would be required for any such determination.

Even if the Applicants are able to obtain this commitment from the City, as noted by the staff in their June 18, 2020 Staff Report, this Project is preferable to the WPD because it provides for a SFR + ADU which mitigates the loss of a unit where the WPD does not. **The Project is therefore**

²¹ It would be an error not to consider the entire certified LUP.

²² Staff Report, pages 10-11.

²³ Hermosa Beach Municipal Code (HBMC) Chapter 17.52

consistent with the Coastal Act goals of providing more units in the coastal zone. The WPD is not.

Finally, as also noted by the staff in the June 18, 2020 Staff Report, the above ground square footage of the WPD is comparable to the above ground square footage of this Project (4776 sq. ft. vs. 5091 sq. ft.) While the Project contains a 1712 sq. ft. completely below grade basement, this is not visible from street level. Therefore, the design profile and scale of the WPD and current Project are comparable.

G. No Project is Not An Option

Staff suggests that doing nothing with the duplex is a viable option. It is not. Doing nothing renders the Property undevelopable and strips it of any economically beneficial use: with moisture, asbestos and structural issues, the 80 year old Property cannot safely be rented in its current state without a substantial remodel (and has not been rented for almost three years). ²⁴ Any such remodel triggers the density requirements of the LUP. Retaining the existing structure is therefore not "feasible" under section 30612 of the Coastal Act.²⁵

A permit denial should not deprive coastal landowners of all economically beneficial or productive use of land. Denying this Project, on the basis that "no project" is an option, does just that. Nor is "no Project" consistent with the goals of the Coastal Act: in its current state, the Property cannot be rented or lived in. There are no habitable "dwelling units" on the Lot. This decreases unit and population density which is not consistent with the Chapter 3 policies of the Coastal Act. Therefore, denying this Project, on the basis that "no project" is an option does not achieve the goals of the Coastal Act.

H. A Denial Of This Application Leaves The Applicants With No Options To Develop This Property

The Staff Report states that "denial of [the Application] will neither eliminate all economically beneficial productive use of the Applicants' property, nor unreasonably limit the owner's reasonably investment backed expectations of significant economic value of the property."²⁷ The solutions proposed by the staff do exactly that: A duplex cannot be rebuilt, there is no commitment

²⁴ At page 20 of the Staff Report, staff erroneously assumes that (a) the Property can be rented in its current condition and (b)the two units would potentially provide more housing opportunities for more people compared to one single family residence with an ADU. When last rented, the Property provided enough space for three young adults between the two units. The current Application proposes to have three adults living in the SFR + ADU full- time and additional young adults during the summer months. This exceeds the number of people who could potentially live in the existing structure if it were habitable (which it is not.)

²⁵ "An application for a coastal development permit to demolish a structure shall not be denied unless the agency authorized to issue that permit, or the commission, on appeal, where appeal is authorized by this division, finds, based on a preponderance of the evidence, that retention of that structure is feasible."

²⁶ Rendering the property undevelopable would amount to an unconstitutional taking.

²⁷ Staff Report, pg. 20.

from the City that the Applicants can built the WPD and the existing structure is not habitable without a substantial remodel triggering the density standards in the LUP.

I. The Project (SFR + ADU) Is The Only Option That Complies With the Certified LUP and State Law

1) A SFR + ADU Complies With The 1982 Certified LUP

The existing structure is a non-conforming duplex that does not comply with the certified LUP. At 3,300 sq. ft., the Lot can only accommodate a single family residence under the LUP. The result is that under the certified LUP, the Applicants are prohibited from building anything other than a single dwelling unit on this lot.²⁸

While the size of this Lot only permits a single family home, adding a sizeable ADU mitigates the loss of a separate unit and maintains density on this Lot. As noted above, there is no other option for the redevelopment of this Project site given the age and condition of the existing structure, the certified LUP and the uncertified zoning code.

Because the Project seeks to bring the Property into compliance with the certified LUP, approving this Project will not prejudice the ability of the Coastal Commission to finalize an LCP. On the other hand, denying this CDP application would render the Property undevelopable and the existing structure would remain in its dilapidated condition in violation of the certified LUP.

Therefore, this Project conforms with the dwelling unit standards under the certified LUP. The current non-conforming structure does not.

2) A SFR + ADU Complies with the 2020 State Law

Under the 2020 State Housing Crisis Act (SB 330) California cities must maintain the number of units when approving development projects.²⁹ In addition, cities must permit the construction of ADUs, provided the property owner abides by minimum set back and safety requirements. As a result, a city can no longer preclude an ADU based on the overall square footage of the lot.³⁰

As a result of this legislation, Hermosa Beach, like all surrounding cities, adopted an ADU ordinance which permits ADUs to be built on smaller lots.³¹ ADUs can also be used to replace the loss of a non-conforming unit where local zoning does not permit replacement of the number of units being demolished. This complies with SB330 and ensures that there is no net loss of units or reduction in density.

²⁸ See above analysis of LUP.

²⁹ Gov Code, Housing Crisis Act, Title 7, Div 1, Chapter 12, Section 66300(d)(1).

³⁰ Gov Code, Title 7, Div 1, Chapter 4 (Zoning) Article 2, Sections 65852.2, 65852.22

³¹ Urgency Ordinance No. 20-14-30U.

- 11 -

As described in the Staff Report, the Housing Crisis Act does not apply to the Coastal Commission or modify the Coastal Act. Nor was SB330 in place at the time the Applicants filed their application with the City or with the Coastal Commission.

Nevertheless, recognizing the importance of the Commission's intention to maintain housing in the coastal zone, and the requirements of the new state law to maintain density, the Applicants volunteered to include an ADU in the Project design as a means of maintaining the same number of dwelling units on this lot. The ADU is the only option to maintain the same number of dwelling units on this Lot because local zoning does not permit a duplex to be rebuilt.

J. The Project (SFR + ADU) Maintains Density

Importantly, this project does not result in the loss of a residential unit under state law. This proposal will result in the loss of a duplex unit, but under state law, a residential dwelling unit includes an ADU.³² The legislature has described ADUs as a "valuable form of housing"³³ and the Regional Housing Needs Assessment ("RHNA") counts ADUs as housing. ³⁴

Because a residential dwelling unit includes an ADU, replacing a duplex unit with an ADU, does not change the number of residential dwelling units on this Lot.³⁵ Incorporating an ADU into the Project design is permitted where a second duplex unit is not because the state law exempts ADUs from exceeding municipal density limits, regardless of the state's designation of an ADU as a residential dwelling unit.

³² "Accessory Dwelling Unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. Gov Code, Title 7, Div 1, Chapter 4 (Zoning) Article 2, Section 65852.2(j)(1).

³³ AB881: Gov Code, Title 7, Div. 1, Chapter 4, Article 2, Section 65952.150

³⁴ See City Letter, page 1. At *page 1*, the City states: "The City supports the use of ADUs as dwelling units within the coastal zone and agrees that ADUs are considered independent dwelling units per sec 65852.2(j) of the Government Code, the state legislature and the California Department of Housing and Community Development ("HCD"), which sets the RHNA numbers."

³⁵ Concluding that an ADU is not a "dwelling unit" is wrong and inconsistent with state law. The City too was concerned about the lack of clarity from the Coastal Commission staff regarding the use of an ADU as a replacement unit. In the City Letter, it comments on Commission's evolving position on the use of ADUs as replacement units. The City acknowledged that it was induced to change its ADU ordinance and accept the mandates of the 2020 State ADU law expecting "that it would resolve this replacement issue in the Coastal zone. In fact, it was the Coastal Commission staff that originally suggested to local residents that an ADU could be used as a replacement unit, especially on the problematic nonconforming properties where local zoning would not allow for replacement of the number of units being demolished." City Letter, page 2. Currently, the Coastal Commission and the City continue to disagree on the meaning of livable "housing" and whether an ADU is appropriate as a replacement unit. In the result, the predicament of property owners in Hermosa beach is now reversed: the City will allow a property owner to build an ADU, but not a duplex. However, the Coastal Commission will no longer accept an ADU, but will still allow the owner to rebuild the duplex.

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Notably, there is no functional difference between a duplex and an ADU: both a duplex and ADU are zoned multi-family; neither a duplex nor an ADU can be purchased independently from the main unit; neither the Commission, state nor municipality have the authority to require a duplex owner to rent out individual units. The only difference between a duplex and an ADU is that on this particular Lot, the Applicants can obtain a building permit for an ADU plus a single family residence but they cannot obtain a building permit to rebuild a duplex.

From a functional perspective, the new ADU is more consistent with the goals of the Coastal Act than the existing duplex unit: it is larger than the unit it is replacing and because of its design (larger bathroom, closet and kitchen and living area) it can accommodate more people living on this Lot. The ADU provides a safe environment for tenants, corrects the safety hazards of the existing structure and introduces environmentally friendly features to a coastal property.³⁶ It is a practical, rentable option for the property owner which could accommodate a single person, couple, young family or a multi-generational family (grandparents, adult children). ADUs also provide opportunities for lower cost housing (albeit not "affordable housing") in the coastal zone. Even if the duplex could be rebuilt (which it cannot), a larger duplex unit would almost certainly rent for substantially more than the proposed ADU. This result is not consistent with the goals of the Commission.³⁷

Together with the single family residence, this Project provides an opportunity for more people to live on the same Lot. The entire Project increases the total number of people living on the Lot from zero to a minimum of three. The intended use involves middle aged adults, young adults and elderly parents. This is consistent with the Commission's goal to maintain or <u>increase</u> density in the coastal zone in areas that can accommodate it and the LUP's goal to maintain a diversified mix of age and income groups.

With this Project, there is no net loss of dwelling units and no decrease in density, as required by state law. The Applicants are maintaining the number of residential dwelling units on this Lot and providing a larger, more functional ADU unit that can accommodate more people than the existing smaller duplex unit.

³⁶ The Project includes resource efficient materials and features that qualify for potential LEED certification.

³⁷ There is a misconception that ADUs will not be rented, particularly in a community such as Hermosa Beach. Hermosa Beach has embraced housing density and the coziness of close neighbors. People move to Hermosa Beach because they appreciate this intensity. Rentals of what were traditionally known as granny flats, or backyard garages (usually non-conforming or bootlegged units), are now called "ADUs" - these are typical in the area and welcomed by neighbors and property owners. ADUs are not only a source of income for the property owner, but also provide security for owners and neighbors, and contribute to the close knit community that draws people to Hermosa Beach.

K. Recent Commission Decisions Confirm That ADUs Are Consistent With The Coastal Act

There is a precedent for the Commission permitting the redevelopment of multiple legal non-conforming units into a single family home and accessory dwelling unit when the same number of units cannot be rebuilt due to local zoning laws.

The Commission has accepted ADUs as replacement dwelling units in other cities as recently as July 2020, acknowledging that these dwelling units maintain density. In reviewing a July 2020 Santa Monica application to redevelop two separate dwelling units on a 2608 sq. ft lot, the staff concluded that development of a single family home plus an attached JADU was consistent with the Chapter 3 policies of the Coastal Act.³⁸ In this particular case, the approved proposal involved demolishing a 575 sq. ft. non-conforming detached structure, and replacing it with a 279 sq ft JADU attached to a single family residence.³⁹

A second example includes two projects in Hermosa Beach where the applicants voluntarily included ADUs after the Coastal Commission recommended to local residents that they modify plans and build an ADU to compensate for the loss of one dwelling unit. The Coastal Commission concluded that these proposals were consistent with the Chapter 3 policies of the Coastal Act. ⁴⁰

These decisions illustrate that where local zoning does not allow the same number of units to be rebuilt on a project site, approval of a single family home and ADU on the site complies with the Coastal Act.

L. The Project Does Not Result In A Loss Of Housing or Affordable Housing

Although the Coastal Act does not authorize the Commission to regulate affordable housing, it does provide that the Commission should encourage the protection of existing and new affordable housing opportunities.⁴¹ The Applicants appreciate and support this goal and understand that the Coastal Commission is looking to maintain housing in the coastal zone.

³⁸ The Commission may recall that it had three projects on the consent calendar in July 2020. Two in Hermosa Beach (including the present Application and the Wang Project) and one in Santa Monica. Each project proposed to replace a duplex with an ADU or JADU. The Hermosa Beach projects were taken off the consent calendar for further debate. The Santa Monica project was approved without discussion.

³⁹ See staff report for 156 Fraser Avenue, Santa Monica, dated July 10, 2020, page 6. "Previously, the Commission has required maintenance of the number of residential units on a site when consistent with local zoning by approving projects that include Accessory Dwelling Unit (ADU) or a Junior Accessory Dwelling Unit (JADU) in addition to the main dwelling unit. Although the city of Santa Monica's certified LUP limits development on this R2 zoned property to one unit per 1,500 sq. ft. on each parcel, it does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. Therefore, the development of the JADU is consistent with the certified LUP and consistent with Section 30250 of the Coastal Act."

⁴⁰ CDP for 52-54 17th Street, Hermosa Beach and CDP for 1602 Loma Drive, Hermosa Beach; CDP for 1820 Manhattan Avenue (Wang Project).

⁴¹ Coastal Act, Section 30604.

However, denying this application does not accomplish this goal. There is no existing affordable housing on this Property (or in the Hermosa Beach coastal zone) so approving this application will not take it away.

While the units on this Property have been vacant for some time, when rented, they were not considered affordable protected units under SB330. 42 The rents that exist today and that would exist if the Applicants could build a duplex (which they cannot) are not affordable housing.

If anything, the proposed ADU creates a more affordable option that can be rented, compared to a larger duplex. For this reason, the project is consistent with the Coastal Act as it provides lower cost housing in the coastal zone.

M. The Project Is Consistent With The Surrounding Community Character

Staff argues that this Project will have a cumulative impact on the overall character of the surrounding area, inconsistent with section 30251 of the Coastal Act.⁴³ The staff's analysis is flawed for the following reasons.⁴⁴

Firstly, staff takes issue with the size of the SFR (although staff did not take issue with this in June 2020). The staff states that the proposed residence is 6,803 sq. ft. but this includes the 1800 sq. ft. fully below grade basement. As noted above, without the basement, this unit is 5,019 sq. ft. above grade and comparable to the size of the WPD residence previously approved by the Commission for this lot and other residences in the area.

Secondly, staff is concerned that this Project will set a precedent, allowing other lots in the area to redevelop properties with fewer onsite units. This statement is incorrect for the following reasons:

(a) It presupposes that ADUs are not "dwelling units" which for the reasons articulated above, is an error. Simply put, ADUs do not present a risk for downzoning because they are considered dwelling units and because as a condition of approval, the deed requires them to be maintained as such for the life of the structure. If anything, this Project supports the conclusion advocated by the Commission thus far in prior projects: if the existing LUP will not allow development of the same number of units, loss of a unit can be mitigated by inclusion of an ADU.

⁴²See above SB330, section, 66300(d)(2)(E)(ii). For a one, two or three person household, the maximum qualifying annual incomes are respectively \$58,540, \$66,800 and \$75,150. See also, California Department of Housing and Community Development, average state and federal income limits from 2015-2020 (hcd.ca.gov).

⁴³ Section 30251 of the Coastal Act states: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...."

⁴⁴ A Community Character analysis depends on which lots one analyzes. For example, the Staff analyzed two streets surrounding the Property (see Exhibit 5 to the Staff Report) and the Applicants analyzed an additional third street surrounding the Property (see **Exhibit B** to this letter).

- (b) It is based on the incorrect assumption that there are alternative forms of development that can be approved on this Lot and other R-2 sites of equal square footage within the surrounding area. As noted above, R-2 lots of 3300 sq. ft. can only accommodate a single family residence under Appendix J to the certified LUP. The City will not permit a new duplex on this Lot. Moreover, the alternative forms of development advocated by the staff cannot be accommodated on this Lot. Denial of this Application would leave the Property owner with no option to redevelop an aged out structure.
- (c) As acknowledged by the staff projects should be examined individually to determine whether they comply with applicable zoning laws. If other larger lots can accommodate two units under the governing density standard of the certified LUP, and given the new 2020 laws now in effect, the current LUP would require that two units be rebuilt. There is therefore no danger that this Project will set a precedent.
- (d) As this Project has a WPD, it can be distinguished from other properties not already approved for a SFR. This special circumstance was acknowledged by the staff in the June 2020 staff report.

Third, this Project is entirely consistent with maintaining a diversified mix of housing —the ADU provides a smaller, more affordable living option than a full duplex unit or SFR and as noted above, together the SFR + ADU will be occupied by a multi-generational family.⁴⁵ This is consistent with both the certified LUP and compatible with the character, mass and scale of the surrounding area (as agreed by the staff in June 2020).⁴⁶ **Thus, the overall character will not be impacted.**

Fourth, contrary to the staff's conclusion, the Project is also consistent with sections 30250 and 30253 of the Coastal Act regarding "development" in areas that can accommodate it.⁴⁷ In this context "development" is defined to include "any...structure" and "structure" includes a "building." Based on this definition, an ADU is a development and concentrating ADUs in areas that can accommodate it (such as this Lot) is entirely consistent with the Coastal Act.⁴⁸ Because the Project will bring the Property into compliance with the certified LUP and is consistent with the Coastal Act, it will not prejudice the ability to prepare an LCP.

N. The City's ADU Approach Is Consistent With Surrounding Cities And State Law

While the Applicants are not here to advocate for Hermosa Beach, it must be noted that the City's approach to ADUs is no different than that of the surrounding cities. The permitting of ADUs to replace non-conforming units is not unique to Hermosa Beach. Indeed, half a block from the Property, Hermosa Beach turns into a different coastal city where ADUs are also considered valid replacement units. ⁴⁹

⁴⁵ And later rented when no longer needed for this purpose.

⁴⁶ As noted by the staff in their June 18, 2020 Staff Report, the Project complies with all height requirements, scale and character of the surrounding neighborhood.

⁴⁷ Staff Report, page 15.

⁴⁸ See Section 30106 of the Coastal Act.

⁴⁹ See Manhattan Beach Urgency Ordinance No. 20-0005-U.

It would be an error to conclude that only the city of Hermosa Beach is treating an ADU as a residential dwelling unit. As described above, ADUs are residential dwelling units under state law. The surrounding coastal cities similarly treat ADUs as such and recognize that ADUs satisfy the requirement to maintain density, particularly where local zoning and small lot sizes combined cannot accommodate the existing number of units on the project site.

The approach to ADUs in Hermosa Beach has changed drastically in the last year. Pre-2020, there was a gap in the ability of the City to approve a property owner's request to build an ADU. The City fixed this. In 2020, Hermosa Beach amended its ADU ordinance bringing it in line with the new 2020 state laws. The City is now applying the new 2020 laws regarding ADUs and maintaining density. The approach in Hermosa Beach is no different than any other surrounding city. ⁵⁰

The recent approval of a single family residence-JADU in Santa Monica, discussed above, demonstrates this point. In the case of both the Santa Monica CDP and this Project, the city zoning codes preclude multiple units on the project sites. Both cities adopted the same solution to maintain density and the number of dwelling units on the project sites: each city approved a single family residence and an ADU/JADU.⁵¹

Hermosa Beach similarly maintains that it is preserving, not reducing its housing stock. In this regard, the City is complying with the new 2020 Legislation.⁵²

⁵⁰ The Applicants acknowledge that there have been ongoing negotiations between Hermosa Beach and the Coastal Commission to finalize a LCP. The Applicants respect this negotiation process. However, property owners can only act on the basis of the rules in place at the time their applications are submitted. CDP applications should not be delayed pending negotiations nor should policy be created through individual CDP applications. Should this Application be denied, the Applicants will literally be "stuck" between two governing bodies with two different development standards, unable to develop their Property.

⁵¹ Unlike the JADU approved by the city of Santa Monica, the ADU approved by Hermosa Beach for this Project is substantially larger than the unit being demolished.

⁵² See City Letter, pages 1-2.

O. Closing remarks

The entirety of the Staff Report indicates that what we are really dealing with is staff's reluctance to accept an ADU as a dwelling unit. ADUs are dwelling units based on state law and denying this application because of the ADU is a violation of state law.

This Project complies with the current Hermosa Beach certified LUP, the Hermosa Beach ADU ordinance, the 2020 State laws regarding ADUs and density and the Chapter 3 policies of the Coastal Act. It is consistent with other Hermosa Beach and coastal city projects approved by this Commission and will not prejudice preparation of a LCP. Approving this Project provides an opportunity for lower cost housing through the ADU and maintains density on this lot.

On behalf of the Applicants, we ask for your support for this Application. Thank you for your time and consideration.

Sincerely,

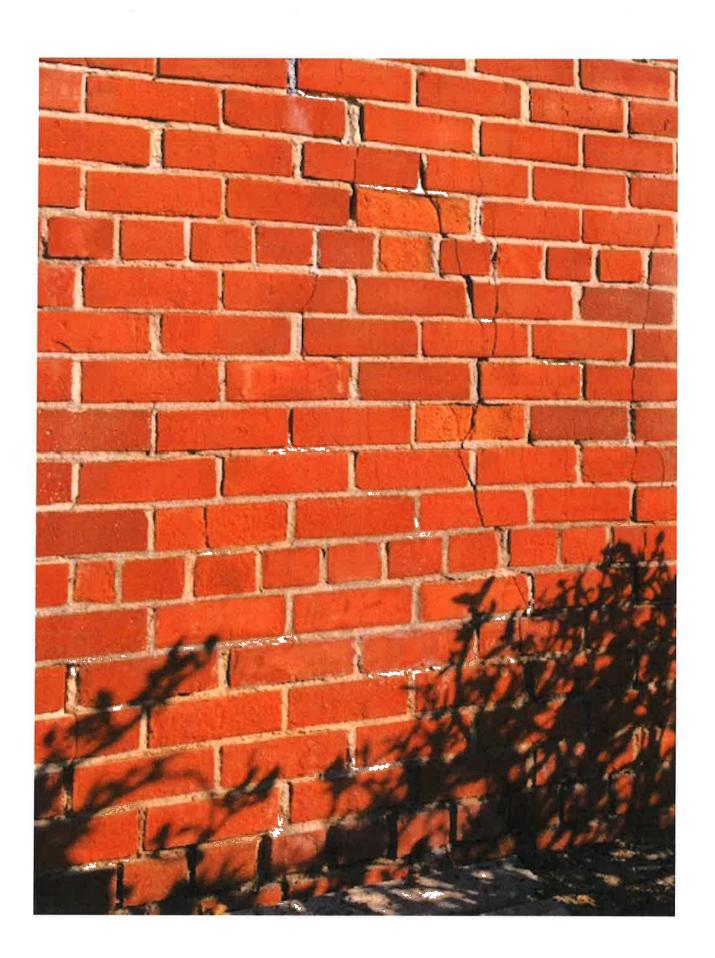
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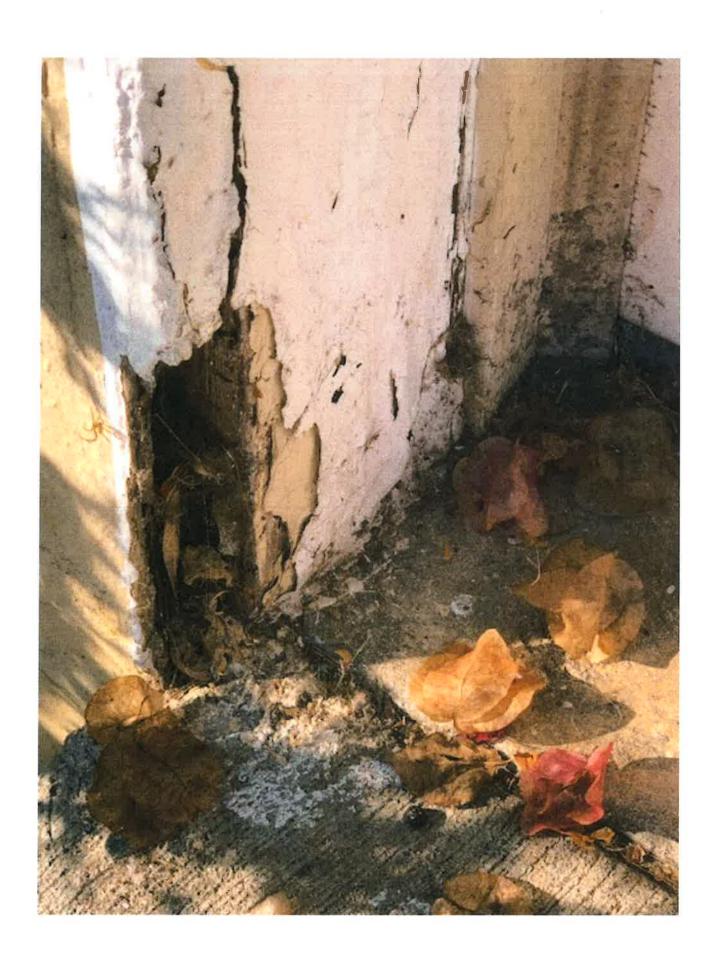
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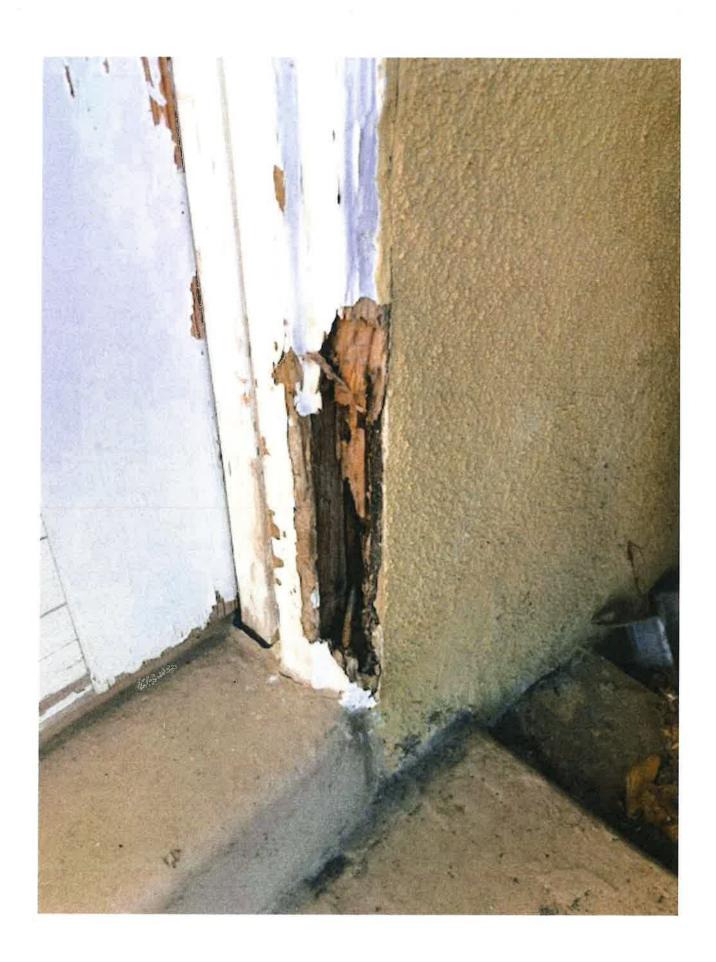
Attorneys at Law

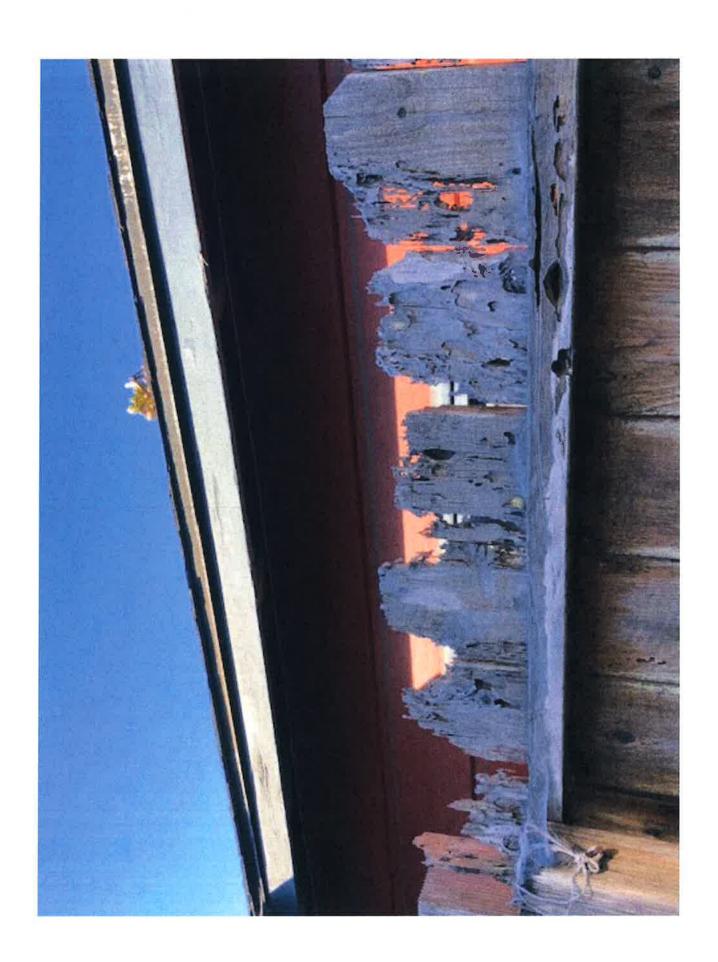
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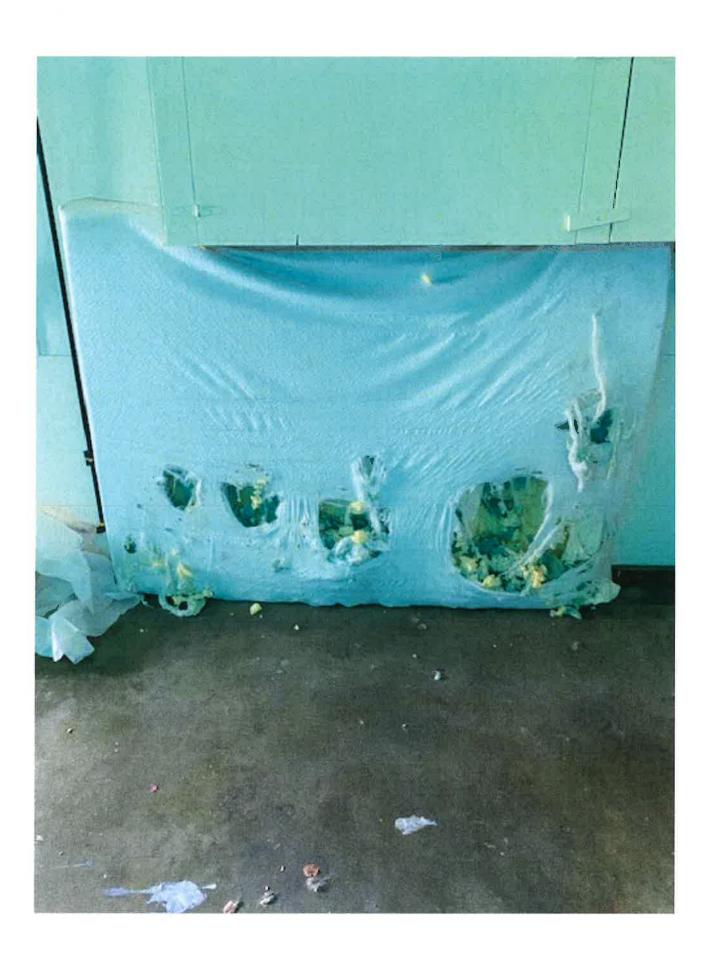
Coastal Application No. 5-19-1220 Exhibit A

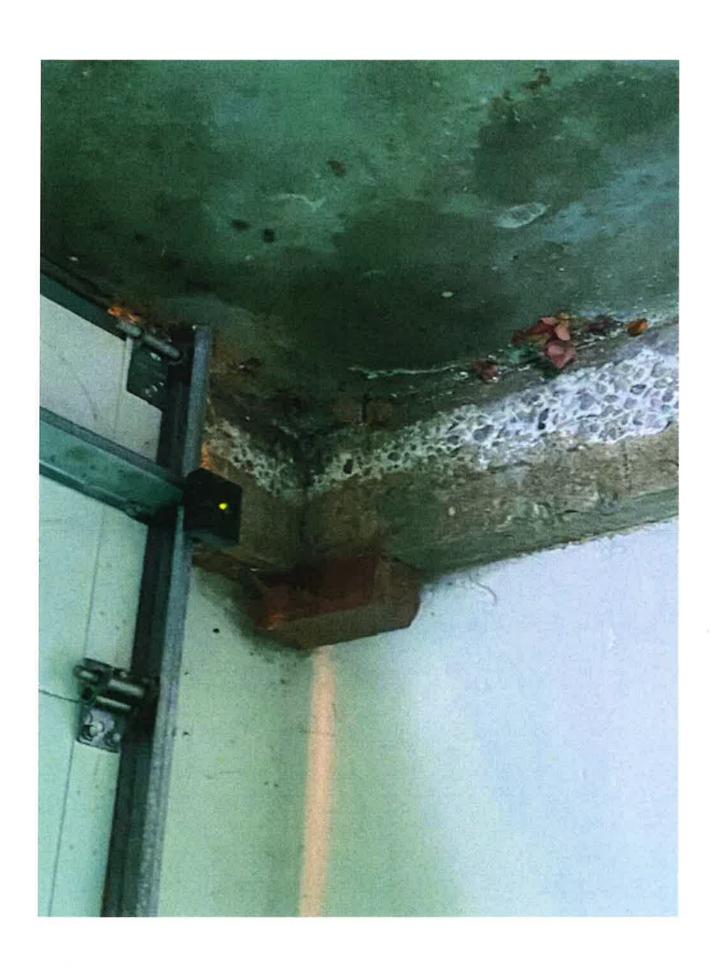








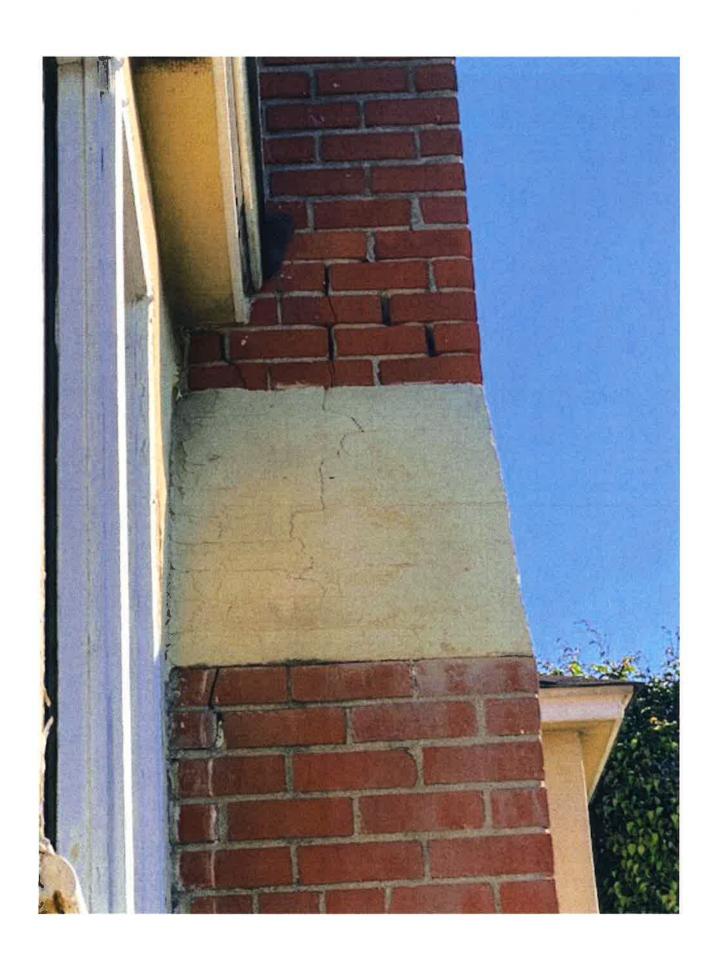




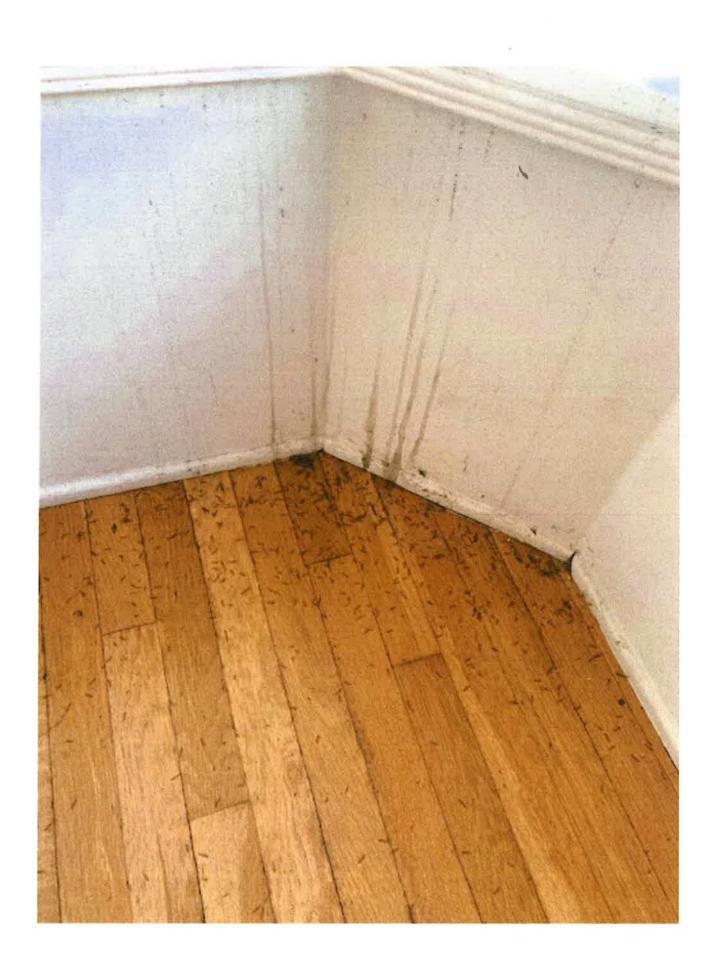


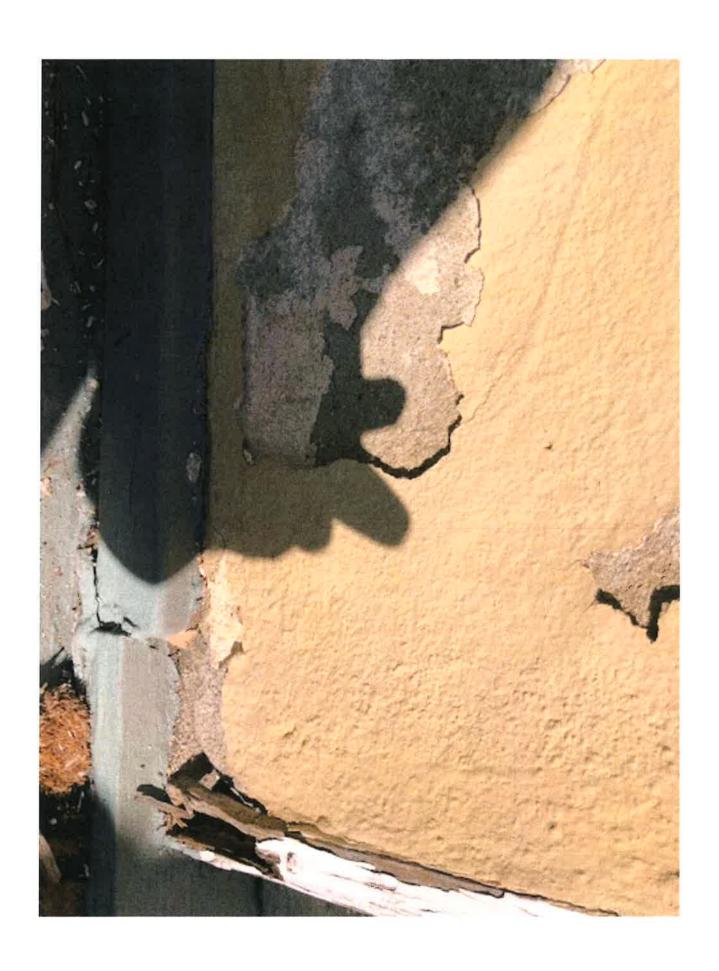


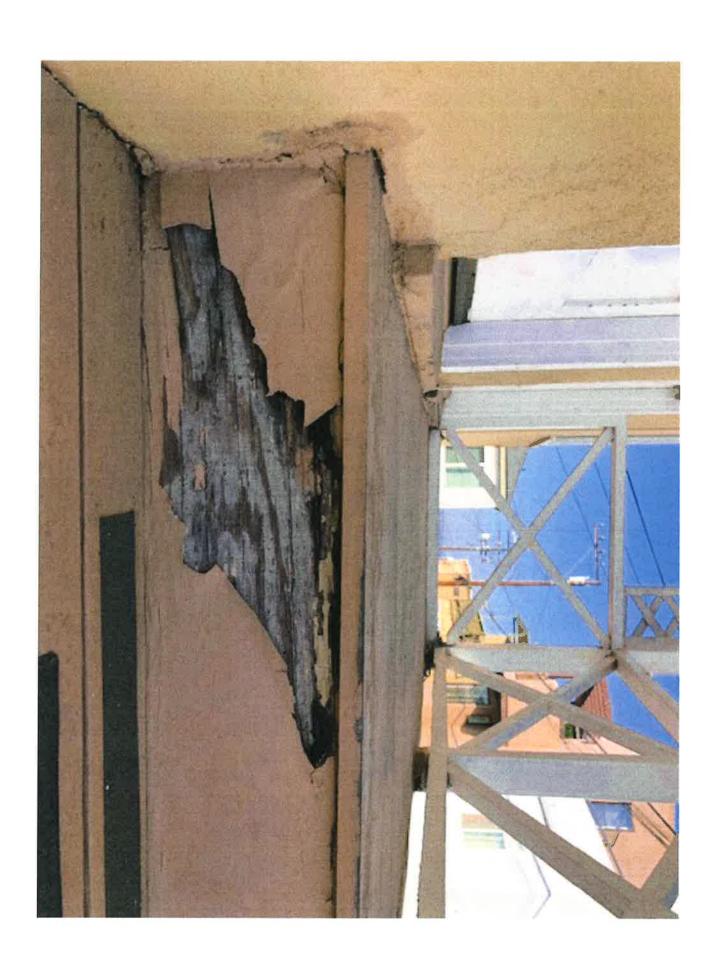


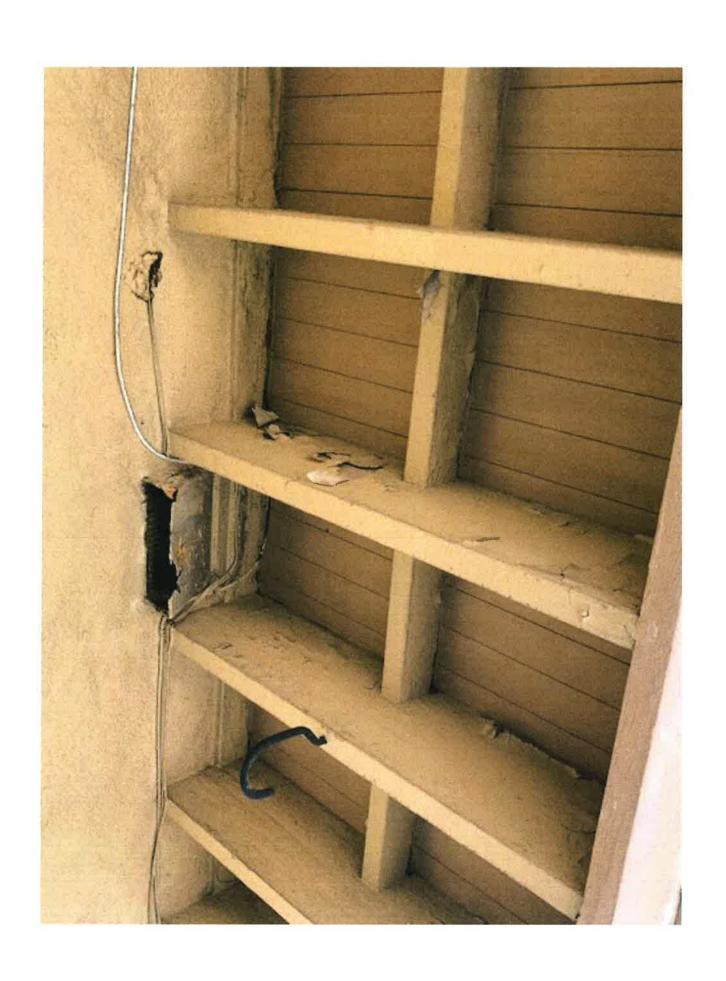












Coastal Application No. 5-19-1220

Exhibit B

SROUR & ASSOCIATES

Real Estate Development Services Group, Inc. 1001 Sixth Street, Suite 110, Manhattan Beach, CA 90266 310/372-8433 • brandon@esrour.com

December 11, 2019

Amrita Spencer Coastal Program Analyst California Coastal Commission 301 E. Ocean Blvd, Suite 301 Long Beach, CA 90802

Re: Application No. 5-19-1220 / 3205 Highland Avenue, Hermosa Beach

Dear Ms. Spencer:

This is in response to the Notice of Incomplete Application dated November 25, 2019.

<u>Design Alternative</u>. You requested a design alternative that maintains the existing two-unit density on the site. You also asked for an analysis and exhibit showing neighboring structures on the subject block and adjacent block and whether they are single-family or multifamily units.

Enclosed please find two full-size drawings showing a design alternative that allows two units to be maintained on-site by modifying the ground floor to incorporate a junior accessory dwelling unit. Also enclosed is an exhibit showing neighboring structures on the subject block and adjacent blocks (minimum 20 closest properties) and whether they are single family residences or include multiple units. The exhibit shows 41 surrounding residential lots with a total of 62 units. Twenty-two of the lots (53%) have single-family residences. Nineteen of the lots (47%) have multiple units.

Supplemental Fees. You requested supplemental fees in the amount of \$6,809, which are enclosed.

<u>Verification of Building Height</u>. You asked that we verify the height of the proposed residence using the certified LUP standards for building height limits. You stated that the LUP requires building height to be measured from the "existing finished grade." The LUP, however, states that building height is to be measured from "existing or finished grade." See Appendix G, at G-3, Table XII, footnote. The architectural plans submitted stamped approved by the City of Hermosa Beach show that the building height at all points along the roof line do not exceed 30 feet from the existing grade.

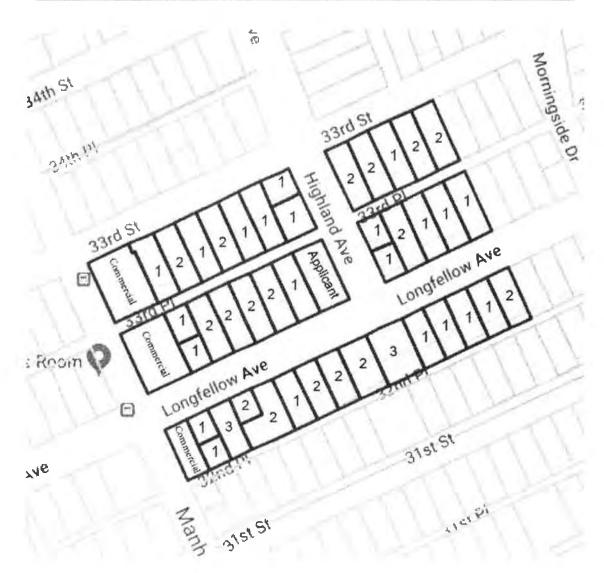
Thank you for your consideration.

Sincerely,

Brandon Straus

Enclosures

Exhibit Showing the Number of Units in Neighboring Structures on the Subject Block and Adjacent Blocks for 3205 Highland Ave, Hermosa Beach



Coastal Application No. 5-19-1220 Exhibit C

CALIFORNIA COASTAL COMMISSION

South Coast District Office 301 E Ocean Blvd., Suite 300 Long Beach, CA 90802-4302 (562) 590-5071



W5a

Filed: 01/10/20 180th Day: 07/08/20 Staff: A. Spencer -LB Staff Report: 06/18/20 Hearing Date: 07/10/20

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-19-1220

Applicant: George and Tallie Dennis

Agent: Srour and Associates

Location: 3205 Highland Avenue, Hermosa Beach, Los Angeles

County (APN: 4181-018-015)

Project Description: Demolish an existing two-story, 1,809 sq. ft. duplex

and construct a new 30-ft. high, three story (over basement), 6,803 sq. ft. single family residence with an attached three-car garage, and an attached 230

sq. ft. junior accessory dwelling unit.

Staff Recommendation: Approval with conditions.

Staff Note: Under the Permit Streamlining Act, the time-frame for Commission action on this coastal development permit application is **July 8, 2020,** 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time-frames for action in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before **September 6, 2020.**

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a two-story, 1,809 square-foot pre-coastal duplex and to construct a 30-foot high (above the existing natural grade line), 6,803 sq. ft., three-level (over basement) single-family residence with an attached 230 sq. ft.

JADU, a ground-level patio and an attached three-car garage (a total of four stories). The proposed basement is 1,712 square feet and located below-grade (Exhibit 2). Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 1,400 cubic yards of cut. The Commission certified the City's LUP in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for the project, with the certified LUP used as guidance.

As proposed, the project would eliminate one residential unit. The Coastal Act policies direct the Commission to encourage affordable housing (PRC 30604), and to concentrate new development in already developed areas that are able to accommodate it and which minimize vehicle miles traveled (PRC 30250 and 30253(e)). In previous projects, the Commission has required the development of an additional residential unit, or accessory dwelling unit (ADU)/junior accessory dwelling unit (JADU) as a means to mitigate for a lost residential unit. The certified LUP does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. In previous applications, applicants did not have the opportunity to mitigate the loss of residential units with ADUs because the City's ADU ordinance restricted the ability to develop ADUs/JADUs to lots that were larger than 4,000 square feet and zoned single-family residential. However, as of January 1, 2020, the City's ADU ordinance is not consistent with the state's new ADU law, which does not allow local governments to impose minimum lot size requirements on the construction of ADUs; as a result, the City amended its ADU ordinance in January 2020 to be consistent with the updated ADU law. In addition, the new ADU law requires ministerial approval of applications for ADUs and JADUs that meet certain minimum requirements regardless of whether a local government has adopted an ADU ordinance. Therefore, local zoning does not appear to prevent the applicant from constructing an ADU.

The applicant has revised the project description to incorporate an attached 230 sq. ft. JADU which has been reviewed and approved by the City. Although the JADU has been designed to function separately from the single-family residence, the JADU is dependent on the single-family residence to serve as a housing unit. The JADU shares utility lines (power, water) with the single-family residence. The JADU also cannot be sold separately from the single-family residence. This differs from a duplex, where the units can have separate utility connections and can be rented or sold independently from one another. While it is true that JADUs are not independent housing units, JADUs do provide additional housing units in areas that are impacted by the housing shortage. JADUs are typically more affordable to rent because of their smaller size. With a living area less than 500 square feet, JADUs may not attract families, but are ideal for individuals or couples who may not otherwise be able to afford to rent out larger units. Overall, JADUs do accommodate individuals other than the residents of the single-family residence and should therefore be considered to be additional living units.

In order to ensure that two housing units are maintained onsite, the Commission imposes **Special Conditions 1 and 4**, which require the applicant to maintain the proposed JADU as a separate unit and to not incorporate it into the rest of the single family residence and to record a deed restriction against the property that provides

5-19-1220 (Dennis)

future owners with notice of all of the conditions of this permit, including the requirement to maintain the JADU as a separate unit.

More broadly, planning for concentration of development and encouragement of affordable housing can be done through a City's LCP, but is more difficult to do in a meaningful way on a project-by-project basis. Here, Hermosa Beach does not currently have a certified LCP. Until an LCP has been approved for Hermosa Beach, the Commission shall continue to evaluate projects involving a loss of existing housing density on a case-by-case basis. In this case, the project, as proposed and as conditioned by the Commission, will maintain two units onsite and will furthermore provide an affordable housing opportunity for a student, individual, or couple, for example, who may not otherwise be able to afford to rent out a larger duplex unit.

Commission staff therefore recommends that the Commission **APPROVE** coastal development permit application 5-19-1220, as conditioned. The motion is on page 4.

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EXHIBITS

Exhibit 1 – Vicinity Map and Project Site

Exhibit 2 – Project Plans

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 the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. 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 applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- **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.
- **Interpretation**. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- **4. Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

- 1. Retention of Two Onsite Units. The development approved by Coastal Development Permit No. 5-19-1220 is for construction of a single-family residence with a junior accessory dwelling unit (JADU). The applicant and all assigns/successors shall maintain the JADU as a separate residential unit. At no point may the ADU or JADU be incorporated into the single-family residence or converted to a non-residential use.
- 2. 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 October 28, 2019 showing that roof and surface runoff will be captured with drain pipes, an area drain, trench drains and catch basin to direct runoff into 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.
- 3. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris. The permittee shall comply with the following constructionrelated requirements:
 - **A.** No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion:
 - **B.** No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
 - **C.** Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
 - **D.** Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters:
 - **E.** All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - **F.** The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

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- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- **H.** All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- **J.** The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- **M.** All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 4. Deed Restriction. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or

any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The applicant is proposing to demolish a two-story, 1,809 square-foot pre-coastal duplex and to construct a 30-foot high (above the existing natural grade line), 6,803 sq. ft., three-level (over basement) single-family residence with an attached 230 sq. ft. JADU, a ground-level patio and an attached three-car garage (a total of four stories). The proposed basement is 1,712 square feet and located below-grade (Exhibit 2). Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 1,400 cubic yards of cut.

The project site is a 3,300 square-foot, rectangular-shaped lot located 740 feet inland from the beach, and is within a developed urban residential area approximately one mile north of the Hermosa Beach Pier (Exhibit 1). The project site is designated in the certified LUP as a medium-density residential lot, which corresponds to the R-2 zone in the City's zoning code. The R-2 zone allows single-family residences, attached/detached multiple-family dwelling units, and condominium developments (consistent with the City's condominium ordinance). The lot is currently developed with a two-story, 1,809 square foot duplex that was constructed in 1940, prior to passage of the Coastal Act. The proposed development (a single-family residence with an attached JADU) is consistent with the zoning designation in the area. Furthermore, the area in which the project site is located is appropriate to maintain density, in keeping with Section 30250 of the Coastal Act.

The Commission certified the City's LUP in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for the project, with the certified LUP used as guidance.

The three parking spaces proposed for the project are consistent with the Commission's parking standards, as well as the parking standards specified within the certified LUP. The parking spaces would be accessed from 33rd Place, an alleyway from which residences along Longfellow Avenue access their parking and which does not provide public parking spaces. Furthermore, the project does not propose any curb cuts along Longfellow Avenue, so no existing public parking spaces will be lost. The proposed residence also adheres to the height and setback requirements set forth in the certified LUP. Furthermore, there are no public coastal views in the area. The project will therefore have no adverse impact on public access or public coastal views.

The project has also been designed to avoid impacts to water quality. Roof and surface runoff will be managed onsite through the use of drain pipes, area drains, trench drains, and a catch basin to direct water flow to the municipal storm drain system. Landscaping is proposed for the project, which consists of low-water use, non-invasive plants. In

order to ensure that the project protects water quality and marine resources, the Commission imposes **Special Conditions 2 and 3. Special Condition 2** requires the applicant to adhere to the drainage and landscape plans submitted to the Commission on October 28, 2019, while **Special Condition 3** outlines construction best management practices that the applicant shall follow in order to minimize adverse impacts during construction of the residence. As conditioned by the Commission, the project can be found to be consistent with Sections 30230 and 30231 with regard to water quality protections.

The subject site is located in a dense, residentially-zoned area where numerous residential opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within 0.6 mile of the subject property. In addition, the public beach is located adjacent to the public walkway fronting the subject site. Therefore, the project is located in an area that can accommodate it, will be consistent with the character of the area, and will not have cumulative adverse impacts to coastal resources. In addition, the location of the subject site in close proximity to these nearby amenities minimizes vehicle miles traveled and energy consumption.

Project History and Background

Between 2005 and the present, the Commission has approved numerous projects in Hermosa Beach involving the replacement of duplexes or triplexes with single-family residences. On November 9, 2017, the Commission approved CDP Waiver No. 5-17-0823-W for the project site. This De Minimis Waiver is still valid and authorizes the demolition of the existing duplex and construction of a three-story, 4,776 sq. ft. single-family residence with a roof deck, attached two-car garage, and one guest parking space adjacent to the garage. In the time following the Commission's approval of CDP Waiver 5-17-0283-W, the property changed ownership, and, while the applicant has a valid Commission approval for the demolition of the existing duplex and construction of a single-family residence on the site, the development by 5-17-0283-W has not been undertaken.

In this case, the applicant originally proposed to demolish the duplex and construct a single-family residence with no JADU resulting in a net loss of one residential unit. As originally proposed, this project raised concerns regarding consistency with Coastal Act policies relating to new development and housing density, and cumulative impacts to coastal resources as a result of the broader trend in development in Hermosa Beach to reduce housing density. The applicant has since revised the project to include a JADU within the single-family residence. The application currently before the Commission includes the demolition of the same duplex that was previously approved to be demolished and the construction of a single-family residence that, while larger than the currently approved (5-17-0283-W) single-family residence, also includes a JADU, thereby mitigating the loss of a residential unit, which the previous (and still valid) approval does not.

Although the City of Hermosa Beach does not have a certified LCP, it does have an LUP that was certified by the Commission in 1982 and provides guidance as to whether

the proposed project complies with Chapter 3 of the Coastal Act. The LUP designates the project site as Single-Family Residential (R-2) in the certified LUP and in the City's uncertified zoning code. The R-2 zone allows for single-family residences, multiple-family dwelling units (attached or detached), and condominium developments consistent with the City's condominium ordinance. The Residential Zone Requirements in the certified LUP state that a minimum of 1,200 square feet is required for each dwelling unit on an R-2 lot. The project site has a lot size of 3,304 square feet, which allows two units to be developed on the lot under the LUP's Residential Zone Requirements. Conversely, the current Hermosa Beach Zoning Code (which has **not** been certified by the Commission) requires a minimum of 1,750 square feet per unit on R-2 zoned lots, which would only allow one residential unit to be developed on the project site. The current zoning code has not been certified by the Commission, therefore, the certified LUP should be considered when determining whether an existing development conforms to the specified development standards. Under the certified LUP, the existing duplex is a conforming structure.

Given that the existing duplex is a conforming structure that has provided two units since 1940, the re-development of a single-family residence would result in the loss of one existing residential unit. In previous projects, the Commission has encouraged the development of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) as a means to mitigate for lost residential units. In this case, the development of an ADU/JADU on the project site would not be inconsistent with the certified LUP.

As of January 1, 2020, new State ADU/JADU laws went into effect that changed local governments' authority relating to regulation of ADU/JADUs with the goal of increasing statewide availability of smaller, more affordable housing units, which aligns with the aforementioned Coastal Act policies. Similarly, SB 330 (Skinner), which also took effect January 1, 2020, enacted the Housing Crisis Act of 2019 with the goal of increasing housing stock. The Housing Crisis Act prohibits a 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 subject application is not subject to the requirements of SB 330 because it was filed before January 1, 2020. Furthermore, while Coastal Act Sections 30250 and 30253 align with SB 330's goals, the Housing Crisis Act does not apply to the Commission and does not modify the Coastal Act or the standard of review for this project.

Nevertheless, as explained above, the Coastal Act encourages the protection of housing opportunities for individuals of low and moderate incomes (PRC 30604), as well as the concentration of development in already developed areas that can accommodate it (PRC 30250) and the minimization of vehicle miles traveled (PRC 30253(e)). The certified LUP (which is not the standard of review, but provides guidance) does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. In previous applications in Hermosa Beach, the City of Hermosa Beach's former uncertified ADU ordinance restricted ADUs/JADUs to lots that were larger than 4,000 sq. feet and zoned single-family residential. Under the City's former ADU ordinance, the applicant for this project would not have been permitted to develop an

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ADU. However, as of January 1, 2020, the City's former ADU ordinance, which was not consistent with the new ADU law because it included a minimum lot size requirement, was deemed "null and void" under the new ADU law (Government Code § 65852.2(a)(4)). The City passed a new ordinance on January 14, 2020 (Urgency Ordinance No.20-1403-U), which amended the City's previous ADU ordinance to be consistent with the state laws that went into effect on January 1, 2020. Furthermore, Government Code §65852.2(e) mandates ministerial approval of certain application for ADUs or JADUs, regardless of whether a local government has adopted an ADU ordinance. Section 65852(e) requires the ministerial approval of an ADU or JADU within the proposed space of a single-family residence if the space has exterior access from the proposed single-family swelling and the side and rear yard setbacks are sufficient for fire and safety. Thus, neither the certified LUP or the City's ADU ordinance, prevent the applicant from constructing an ADU as part of this project.

In response to the new state ADU laws, the applicant revised the project description to incorporate an attached 230 sq. ft. JADU (which has been reviewed and approved by the City) located on the ground level of the residence (Exhibit 2). Although the JADU has been designed to function separately from the single-family residence, the JADU is dependent on the single-family residence to serve as a housing unit. The JADU shares utility lines (power, water) with the single-family residence. The JADU also cannot be sold separately from the single-family residence. This differs from a duplex, where the units can have separate utility connections and can be rented or sold independently from one another.

While it is true that JADUs are not independent housing units, JADUs do provide additional housing units in areas that are impacted by the housing shortage. JADUs are typically more affordable to rent because of their smaller size. With a living area less than 500 square feet, JADUs may not attract families, but are ideal for individuals or couples who may not otherwise be able to afford to rent out larger units. Overall, JADUs do accommodate individuals other than the residents of the single-family residence and should therefore be considered to be additional living units.

Although the proposed JADU has been designed to function as a separate unit (as demonstrated through the inclusion of a separate exterior entrance, kitchen and bathroom), it is possible that the accessory unit may eventually be used in conjunction with a single-family use. In order to ensure that two housing units are maintained onsite, the Commission imposes **Special Conditions 1 and 4**, which require the applicant to maintain the proposed JADU as a separate unit and to not incorporate it into the rest of the single family residence and to record a deed restriction against the property that provides future owners with notice of all of the conditions of this permit, including the requirement to maintain the JADU as a separate unit.

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

Hermosa Beach is currently working on a comprehensive update to the LUP, as well as an implementation plan, in order to create a complete LCP to be reviewed and certified by the Commission. Until an LCP has been approved for Hermosa Beach, the Commission shall continue to evaluate projects involving a loss of existing housing density on a case-by-case basis. In this case, the project, only as proposed and as conditioned by the Commission, will maintain two units onsite and will furthermore provide an affordable housing opportunity for a student, individual, or couple who may not otherwise be able to afford to rent out a larger duplex unit.

B. Development

Coastal Act Section 30250 provides that new residential development shall be located within or in close proximity to existing developed areas that are able to accommodate it, or in other areas with adequate public services and where it will not have significant, cumulative adverse effects on coastal resources. Section 30251 requires new development to protect public views to and along the beach and other coastal areas; minimize landform alteration; and be designed consistent with the character of the surrounding area. Section 30253 requires that new development must minimize energy consumption and vehicle miles traveled. These policies together encourage "smart" growth by locating new development in appropriate areas that minimizes impacts on coastal resources and discourages residential sprawl in more rural or sparsely populated areas that are not adequately developed to support new residential development and where coastal resources could be threatened. Although the Coastal Act does not authorize the Commission to regulate or require affordable housing, Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities.

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

C. Public Access

As proposed, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction

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activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms 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, marine resources, water quality and the biological productivity of coastal waters.

E. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes an additional 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 actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

F. 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 for Hermosa Beach was effectively certified on April 21, 1982. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified 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 approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The project as conditioned herein incorporates measures necessary to avoid any significant environmental effects under the Coastal Act, and there are no less

environmentally damaging feasible alternatives or mitigation measures. Therefore, the proposed project is consistent with CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-19-1220 and associated file documents. City of Hermosa Beach Land Use Plan, Certified by the Commission on April 21, 1982.

Coastal Application No. 5-19-1220 Exhibit D

1. Existing Policies & Program

Policy: That the City should restrict building height to protect overview and viewshed qualities and to preserve the City"s existing low-rise profile.

Program: Zoning and building codes limit the height of all structures, depending on zone. The maximum height in each residential R-1, R-2, and R-3 zones are 25 ft., 30 ft., and 35 ft. respectively. The maximum height in the City is 45 ft. or three stories and is in the commercial zone. (See Appendix G, Table XIII.)

Policy: Establish residential condominium approval procedures that will encourage the development of units that will contribute to and are consistent with the evolving character of the City.

Program: The current Condominium Ordinance which includes design and building permit review are programs which support this policy.

Policy: That the zoning and general plan will be made consistent.

Program: In the November 1980 election, the citizens of Hermosa Beach voted that whenever there was a conflict between the Zoning Code and the General Plan, that whichever designation had the lesser density that density should apply. The Planning Commission started hearing to resolve the conflicts beginning January of 1981. Until such time that consistency is accomplished between the General Plan and Zoning, the General Plan will guide land use decisions.

Policy: That a special overlay zone for the development of large parcels of land should be enacted.

Program: The City Council in November of 1980, passed the Planned Development Zone. The intent of this overlay zone is to encourage a creative approach in commercial and residential development, allow variety and flexibility while maintaining high standards of design. (See Appendix I.)

TABLE XIII

RESIDENTIAL ZONE REQUIREMENTS

31.07	USES	LOT AREA PER	COVERAGE	DL DG.	USABLE OPEN SPACE	FROUT	YAND REQUIREMENTS	SREED
R-1	Single family dwellings, accessory building	1 lot/1 d.u.	65% max.	Max. 2-story or 25'	400 sq. ft. Min. dimen- sion of 10'	400 sq. ft. 10% of lot Nin. dimen- depth, min. 5' sion of 10' max. IO'	10% of lot width, min. 3'	10% of lot Ground - 5 2nd flr3 if alley, 2nd . 3'
R-2 R-2B	Single family dwellings built to R-1 standards; ouplexes; condominiums. (Lot less than 30' wide, S.F.D. only.)	1200 sq. ft./ 1 d.u.	655 max.	Max. 2-story or 30'	300 sq. ft. per d.u. Nin. dimen- sion of 7'	10% of lot depth, min. 5' max. 10'	10% of lot width, afn, 3'	10% of lot Ground - 5' width, 2nd flr3' nfn. 3' 1f alley, 0rd 3'
R-3	Nultiple dwellings; (Lots less than 2400 sq. ft.= single family dwel- lings only.)	Min. 950 sq.ft./ 1 d.u.	65% max.	Max, 35	200 sq. ft. per d.u.	200 sq. ft. As required per d.u. on Zoning Map	10% of lot width min. 3'	10% of lot Ground - 5' ridth If alley, ann. 3' Grd 3'
9-	Residential use - develop to R-3 requirements ** Professional uses, subject to Conditional Use Permit	Same as R+3	70% max.	Max. 45' 3-story	Same as R-3	Same as R-3 As required on Zoning Map	10% of lot width min. 3'	10% of lot Ground - 5 Midth 1f alley, 6rd 3

** Exception: Less than 30 ft. lot width, single family dwelling only; Less than 40 ft. lot width or 4,000 sq. ft., two dwelling units only

DESTANCE BETUFEH BUILDINGS 2-1 & N-3 = Annimum of B Ft. between habitable buildings, and 6 ft. between a habitable and an accessory building. 2-2 & R-2B = Minimum of 6 ft. between all buildings.

ATT dwellings: Two spaces per unit required
ATT dwellings: Two spaces per unit required
Front 50 ft. of lot - Parking must be enclosed
Rear of lot - Parking may be unenclosed
Vote: Tandem parking allowed only on alleys or private driveways.

Revised 9/18/1979

Revised 2/10/75 Page Al

Residential Density & Population Holding Capacity City of Hermosa Beach, California

CHART A

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RESIDENTIAL TYPES	H/US ACRES		ACRES (NET)		RANGE OF H/US	-	PERSONS/ FAMILY		POPULATION RANGES
LOW	0-13	×	230		0 - 2,990 x		2.4	W -	0 - 7,176
MEDIUM DENSITY .	14-25	*	123	N	1,722 - 3,075 X	+	2.4	0	4,133 - 7,380
HIGH DENSITY	26-40	×	80		2,080 - 3,200 X	+	2.3	•	4,784 - 7,360
TOTAL					3,802 - 9,265 X	-	2.4		9,125 -22,236
MULTI-USE CORRIDOR	26-40	*	48	п	625 - 960 X	-	2.3		1,438 - 2,208
TOTAL			481		4,427 -10,225 X	+-	2.4		= 10,625 -24,540
MEDIAN					7,326	+			17.582

Coastal Application No. 5-19-1220 **Exhibit E**



City of Hermosa Beach

Civic Center, 1315 Valley Drive, Hermosa Beach, CA 90254-3885

August 18, 2020

Jack Ainsworth, Executive Director California Coastal Commission John.Ainsworth@coastal.ca.gov

Dear Mr. Ainsworth:

I write today to address one issue: how units are replaced following the demolition of non-conforming dwelling units in the coastal zone. This issue has come up repeatedly over the past few years and warrants the City explaining its position and approach. The purpose of this letter is not to advocate for approval of a coastal development permit for one particular project in Hermosa Beach. Project applicants bear that burden. This letter is written to ensure that the City's land use regulations and policies, which inform the staff recommendation and Commission's decision, are appropriately conveyed and analyzed. The City is in the best position to report on the history and status of our local development standards, and presentation of this information to the Commission is intended to foster the best and more informed decision making.

As the City follows the Commission's various policy and project decisions, we have noticed an evolving (and sometimes inconsistent) position on the use of ADUs (and JADUs) as replacement units (JADUs and ADUs referred to herein together as ADUs). Let me start by saying that the City's position has evolved as well. Simply, the City supports the use of ADUs as replacement dwelling units in the Coastal Zone. As noted in recent staff reports to the Commission, Hermosa Beach recently updated its ADU Ordinance to comply with recent changes in the state law and expanded the locations where ADUs could be sited. I have read that some coastal staff members and some Commissioners do not support use of ADUs for replacement units because "ADUs are dependent on a single-family residence to serve as a housing unit." That is true; an ADU is by its nature accessory to a single-family home. But, they are independent dwelling units and must be treated as such. Frankly, the State has mandated that the City permit these units and as such, they must qualify as replacement dwelling units. The State's ADU program is premised on out of the box solutions to resolving the housing crisis, rethinking existing space to create different housing opportunities for all of California's diverse populations. To suggest that the ADU should not be counted as a replacement unit because the unit may not be rented or is a smaller component of the larger house is immaterial and irrelevant. ADUs are independent dwelling units. See Government Code 65852.2(j)(1). ADUs count towards creating units for the City's RHNA numbers. ADUs actually provide a lower cost housing option in the Coastal

Zone, and can provide independent housing opportunities for senior citizens, college students, individuals who work at local businesses, and any number of other populations. Housing is not just for families and smaller housing options play an important role in the City and the Coastal Zone. Additionally, the City is now subject to SB 330 (the Housing Crisis Act) and these smaller units provide an important tool for replacement units in this built out, incredibly dense city. The state legislature and the California Department of Housing and Community Development treat ADUs as independent housing units and the Coastal Commission should not treat ADUs different than other state agencies.

Over the past few years, our City's executive team has met with the Coastal Commission's executive team to discuss this very issue. At the last meeting, in the summer of 2019, the parties agreed that ADUs would and should serve as replacement units because they meet the Coastal Commission's goals of providing smaller, lower cost housing units in the Coastal Zone. While the State's ADU laws have eliminated aspects of local control over local zoning decisions, the City evolved it position on second units in order to support solutions to address the statewide housing crisis. Part of the inducement to change policy and accept the mandates of the State ADU law was that it would resolve this replacement issue in the Coastal Zone. In fact, it was the coastal commission staff that originally suggested to local residents that an ADU could be used as a replacement unit, especially on the problematic nonconforming properties where local zoning would not allow for replacement of the number of units being demolished. At the time, the City's ADU law did not allow ADUs on certain lots. But following adoption of AB 881, the City has now expanded the sites on which ADUs are permitted. Accordingly, we urge the staff and commission to apply a consistent approach moving forward and treat ADUs as replacement units.

With respect to the nonconforming parcels mentioned above, I would like to reiterate the City's position concerning its local zoning for the record. Many recent reports to the Commission contain a flawed interpretation of the residential densities established in City's Certified Coastal Land Use Plan. This interpretation, and subsequent statements and reports that rely on that interpretation, are fundamentally flawed and reflect an incomplete review of the policies in the certified LUP. Instead, the City's density standards in the Zoning Ordinance are consistent with the residential density policies of the certified LUP. Therefore, the density standards in the Zoning Ordinance can be used as the standard of review for projects pending in the City.

The commission staff tend to focus on a narrow list of LUP policies as support for its recommendations—taking a broader look at the certified LUP can provide a more balanced view of those policies. The following are the most relevant policies in the City's certified LUP that relate to the maximum residential density requirements (which were omitted or not fully described in recent staff reports).

"IV Coastal Housing

Policy: To continue the current mix of low, moderate, and high housing densities

Program: The Land Use Element of the General Plan shall continue to define low, medium, and high-density residential areas within the City. (See Appendix J.)"

VI. Coastal Development and Design

Policy section VI C 1, "Existing Policies and Programs" the third policy and program specifically refers to the 1980 election, where the voters determined to resolve conflicts between zoning and the General Plan with respect to density, the designation which has the lesser density should apply. And further states that "Until such time that consistency is accomplished between the General Plan and zoning, the General Plan will guide land use decisions."

This policy and program are critical to understanding the applicable density limits in the City, yet its full content is typically omitted. The commission staff suggests that the Commission can only rely on the 1981 certified LUP as guidance in this decision. Here, the 1981 certified LUP says that densities are as defined in Appendix J, where the density ranges of the General Plan are exhibited. As noted, the density ranges in the General Plan in effect at that time of LUP certification were as follows:

- Low Density 0-13 units per acre
- Medium Density 14-25 units per acre
- High Density 26-40 units per acre

Nevertheless, the staff often rely only on Appendix G from the LUP and characterize the zoning standards in place in 1981 as the certified development standards of the LUP. They are not. This appendix G was provided for information purposes and to demonstrate the inconsistencies with the General Plan density standards and the zoning provision in place at the time. However, as stated above the relevant policy certified in the LUP at that time are the density ranges in Appendix J, not the "snap-shot" of what the zoning standards were at that time in Appendix G.

Also, the staff focuses attention to the zoning changes in 1986, characterizing that action as "creating more restrictive standards" and that the action was "uncertified". However, such a characterization is not accurate. Those 1986 zoning change actions were appropriate and necessary steps to implement the residential density policies in the 1981 LUP. Simply, the certified LUP policy is to make zoning density standards (expressed in lot

area per dwelling unit) consistent with the General Plan and the certified LUP. Therefore, the zone changes were not more or less restrictive than the LUP—the certified LUP provided that the zoning in the future to be made consistent with Appendix J. What the City did in 1986 was to implement this LUP policy, and the policy of the General Plan, to make the zoning density standards (expressed in lot area per dwelling unit) consistent with the General Plan and LUP. These are the current density standards and can be used as a proper standard of review for this project.

Thus, because of this fundamental misinterpretation of the LUP, and reliance on zoning standards that were in effect in 1981 as the standard of review, we believe the analysis applied to certain projects has been flawed.

Notably, the City continues to work toward completion and certification of a Local Coastal Program, which can resolve this misunderstanding in the future. The City does not disagree with Coastal Commission staff's goals of protecting housing resources in the coastal zone. We share those same goals and continue to work with Coastal Commission and Housing and Community Development staff to bring the local context and perspective needed to meet the constantly evolving nature of housing legislation in a manner that minimizes unintended consequences to coastal access and quality of life issues in our community.

We believe the disconnect is in the current mechanisms being used to implementing those goals. From the City's perspective, the best mechanism to implement housing policy in the City is through the long-term planning, such as the General Plan, LUP and LCP processes, not in an ad hoc basis through individual CDP applications. The long-term planning process, which is well underway through adoption of Hermosa's new General Plan, is a better process to identify appropriate locations for housing density or opportunities for more ADUs, as part of a more comprehensive housing analysis for the City. Undoubtedly, responding to the housing crisis will be a critical component of the next statewide Housing Element Cycle, which is in the early stages of the Regional Housing Needs Allocation process. The City is committed to working with our partners such as SCAG and HCD to meet our obligations and will certainly work to continue to balance those objectives with those of the Coastal Act.

In conclusion, the City of Hermosa Beach has embraced and welcomed high housing densities for decades. The City is one of the most dense areas in the coastal zone throughout the State, with 71% of all lots within the Coastal Boundary zone zoned for multifamily use (R-2, R-2B and R-3). In other words, there are areas of the City's coastal zone that can accommodate high density development and address staff's concerns about a reduction in the number of residential units. Ultimately, these projects on tightly constrained lots require a balancing of many competing interests. That balancing can only be done with due respect given to the local conditions and constraints and we hope that this letter

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assists in providing that necessary context to allow for a thoughtful discussion and decision by the Coastal Commission.

Thank you for allowing us the opportunity to clarify the City's development and density standards. The staff and Commission's role are critical in the implementation of the Coastal Act. We do not take your duty lightly. If there is anything further we can provide to better inform your decision-making, please do not hesitate to let me know. We believe we can best represent the City's development and density standards and housing policies.

Sincerely,

Suja Lowenthal City Manager

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