

**CALIFORNIA COASTAL COMMISSION**

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# Th13c

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## STAFF REPORT: REGULAR 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 731 sq. ft. accessory dwelling unit on a 3,300 sq. ft. lot.

**Staff Recommendation:** Denial

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a two-story, 1,809 sq.-ft. duplex constructed prior to adoption of the Coastal Act and to construct a 30-ft. high 6,803 sq. ft., three-level (over basement) single-family residence with an attached 731 sq. ft. accessory dwelling unit (ADU), a ground-level patio and an attached three-car garage (a total of four stories) on a 3,300 sq. ft. inland lot. The proposed basement is 1,712 sq. ft. and located completely below-grade. The standard of review for this project is Chapter 3 of the Coastal Act and the certified Land Use Plan (LUP) for Hermosa Beach provides guidance.

The primary issue raised by this project concerns the cumulative effects of loss of housing density as a result of demolition of the existing duplex and construction of a single-family residence. The Coastal Act encourages the concentration of new development in already developed areas that are able to accommodate it in order to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (PRC 30250 and 30253(e)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

Here, the project must be viewed in the context of broader housing trends in the coastal zone as well as the significant housing crisis throughout the state. Evidence before the Commission establishes that the project is not an isolated case; rather, Commission records indicate that, since 2014, 38 previously approved projects have involved conversion of multi-family structures to single-family residences in Hermosa Beach (for a total loss of 43 residential units). In recent actions, the Commission has expressed concern with similar projects and the cumulative loss of housing density and has in the past strongly encouraged the construction of accessory dwelling units to mitigate for demolished units.

The applicant now proposes to offset the loss of a residential unit by constructing a 731 sq. ft. ADU. Although the Commission has, in some cases, approved ADUs/JADUs as mitigation for projects that would result in a loss of density, this has typically involved situations where an existing multi-family structure was non-conforming with the density specifications or other development standards of a certified LUP and it was not possible to replace the lost unit with a full replacement unit. Past Commission approvals of these types of projects were often considered as a compromise approach when there was no other option for a property owner to redevelop a site with an aging residential structure while maintaining the same number of housing units consistent with the LUP.

However, in light of a persistent lack of housing supply across the state and in the coastal zone, it has become apparent that replacement of a full housing unit with an ADU/JADU is not always appropriate to preserve housing density in the Coastal Zone in a manner consistent with Chapter 3 policies. ADUs/JADUs are important mechanisms to increase the potential number of independent housing units that can be rented out separately from the primary residence. However, ADUs are dependent on the primary residence to serve as a housing unit and cannot be sold separately from the primary residence. This differs from a duplex, where the units can have separate utility connections and could be sold independently from one another, if converted to a condominium. In addition, it is more difficult to enforce the continuous provision of an ADU as compared to a duplex, and ADUs are more easily left vacant or used by the occupants of the primary residence. Therefore, there is a lower degree of confidence that an ADU will be used or rented out as a second unit, especially in this case, where an approximately 700 sq. ft. unit is a small component of a much larger 6,800 sq. ft. house, and could easily be used by the homeowner rather than rented.

Here, a duplex is consistent with the certified LUP. The project site is designated in the certified LUP as a Medium-Density residential lot, which allows two residential units on

site. The duplex also complies with the certified LUP's minimum lot area per dwelling unit development standards: with a lot size of 3,300 sq. ft. and a minimum lot area per unit of 1,200 sq. ft. in the R-2 zone, the project site can accommodate up to two on-site residential units ([Exhibit 3](#)). Under the City's uncertified zoning code, the minimum lot area per dwelling unit for this site is 1,750 sq. ft., which would only allow one unit to be developed on the site. However, the standard of review for a CDP is the Coastal Act and the certified LUP is used as guidance, not the City's uncertified zoning code.

Therefore, the proposed project is not consistent with Sections 30250, 30251 and 30253 of the Coastal Act because the project, when viewed cumulatively with other similar projects in the area, does not concentrate development in appropriate areas that can accommodate the existing housing density. The neighborhood in which the project site is located is currently developed with slightly fewer single-family residences than multi-family residences that contain between two to three residential units per lot. Approval of a single-family residence with an ADU could set a precedent to redevelop other surrounding multifamily residences with single-family residences, which would effectively downzone an area that is intended to provide multi-family structures under the certified LUP. The project site is well-served by public transportation and other amenities and is not located in an area that is subject to coastal hazards. The certified LUP identifies the maintenance of the existing housing stock as a primary goal, and further contains minimum lot size per dwelling unit development standards that allow two units on the subject site. Therefore, the project could prejudice the ability of the City of Hermosa Beach to develop an LCP that is consistent with the Coastal Act.

Commission staff therefore recommends that the Commission **DENY** coastal development permit application 5-19-1220. The motion is on page 5.

## TABLE OF CONTENTS

|   |    |
|---|----|
| I. MOTION AND RESOLUTION .....  | 5  |
| II. FINDINGS AND DECLARATIONS.....  | 5  |
| A. Project Description and Location.....  | 5  |
| B. Development .....  | 6  |
| C. Public Access.....   | 16 |
| D. Water Quality .....  | 16 |
| E. Local Coastal Program (LCP) .....  | 18 |
| F. Project Alternatives.....  | 20 |
| G. California Environmental Quality Act.....                                    | 21 |
| APPENDIX A – SUBSTANTIVE FILE DOCUMENTS.....                                    | 22 |
| APPENDIX B – COMMISSION APPROVALS OF HOUSING DENSITY<br>REDUCTION PROJECTS..... | 23 |

### **EXHIBITS**

[Exhibit 1 – Vicinity Map and Project Site](#)

[Exhibit 2 – Project Plans Dated 12/31/2019](#)

[Exhibit 3 – Revised 2<sup>nd</sup> Floor Plan with 731 Sq. Ft. ADU Received July 19, 2020](#)

[Exhibit 4 – City Zoning Code Requirements for the R-2 Zone \(Not certified by the Commission\)](#)

[Exhibit 5 – Community Character Analysis](#)

[Exhibit 6 – Applicant’s Response to Public Testimony at July, 2020 Hearing](#)

[Exhibit 7 - Letter from City of Hermosa Beach Regarding ADUs](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit No. 5-19-1220 for the development proposed by the applicant.

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

### Resolution:

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act, and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## II. FINDINGS AND DECLARATIONS

### A. Project Description and Location

The applicant is proposing to demolish a two-story, 1,809 sq. ft. duplex that was constructed in 1940, prior to passage of the Coastal Act, and to construct a 30-ft. high (above the existing natural grade line), 6,803 sq. ft., three-level (over basement) single-family residence with an attached 731 sq. ft. ADU, a ground-level patio and an attached three-car garage (a total of four stories). The proposed basement is 1,712 sq. ft. and located completely 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 sq. ft., rectangular-shaped lot located 740 ft. 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 uncertified 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 proposed development (a single-family residence with an attached ADU) is permitted within the R-2 zone.

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.

## Project History and Background

On November 9, 2017, the Commission approved CDP Waiver No. 5-17-0823-W for the project site. The De Minimis Waiver authorized 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. The approved Waiver did not include the provision of an ADU. In the time following the Commission's approval of CDP Waiver 5-17-0283-W, the property changed ownership, and, while the waiver is still valid, the development approved pursuant to 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 ADU. 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. Subsequent to the Commission appeal of the local action, the applicant revised the project to include a 230 sq. ft. attached JADU. At the July, 2020 Coastal Commission hearing, Commission staff recommended approval of the project with the JADU on the Consent Calendar. However, Commissioners requested to remove the item from the Consent Calendar in order to have a full public hearing at a future Commission meeting and to allow staff to re-evaluate the issue raised by the project involving the loss of a full residential unit on the site. The applicant has since revised the project to replace the proposed 230 sq. ft. JADU with a larger 731 sq. ft. ADU within the single-family residence ([Exhibit 3](#)). The City approved the 230 sq. ft. JADU in concept; however, as of the date that this staff report was published, the applicant has not submitted any evidence that the City has either reviewed or approved the revised design. Thus, it is not clear whether the revised ADU design is consistent with State ADU laws or with local zoning and building standards.

During the July 2020 Commission hearing two members of public provided oral testimony and raised concerns that the project would adversely impact their home which is directly adjacent to the subject site. The applicant has provided a response letter, which is attached as [Exhibit 6](#) to address this concern.

## B. Development

Section 30250 of the Coastal Act states, in pertinent part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed

and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30251 of the Coastal Act states, in pertinent part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states, in pertinent part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...
- (d) Minimize energy consumption and vehicle miles traveled...

Section 30604 of the Coastal Act states, in pertinent part:

Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons...

- (f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a

manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

LUP Section IV.B states:

#### Goals and Objectives

1. To preserve the City's existing diversified mix of age and income groups.
2. To preserve the City's existing diversified neighborhoods.
3. To promote and encourage the conservation, rehabilitation, and maintenance of the City's existing housing stock.

LUP Section IV.C.1 states, in relevant part:

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 I.)

Program: The Zoning Code shall continue to define the different building standards for each of the residential zones.

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

The standard of review for this CDP application is the Chapter 3 policies of the Coastal Act and the City's certified LUP is used as guidance. The City's current zoning code is not included in the certified LUP and has not been reviewed or certified by the Commission for consistency with the Coastal Act, and is therefore not the standard of review to determine the proposed project's consistency with the Coastal Act with regard to approving or denying a CDP.



The certified LUP identifies the preservation of existing housing stock as an important objective. Furthermore, the LUP also states the need to continue the *current* mix of low, moderate, and high housing densities (refer to LUP Sections IV.B and IV.C.1 above). After certification of the LUP, however, the City made changes to their local planning documents that appear to be reducing, rather than preserving, existing housing stock in the coastal zone by restricting opportunities to construct duplexes and other multi-family residences, which is inconsistent with the certified LUP.

### **Housing Trends in Hermosa Beach**

There is an apparent trend of development in Hermosa Beach of converting multi-family residential developments into single-family homes. The Commission approved 38 projects within the last five years that converted multi-family units to single-family residences (a total loss of 43 residential units).<sup>1</sup> The Commission's approval of projects that would reduce housing density typically relied on Chapter 3 policies or certified LUP policies relating to the project sites; however, many decisions did not look at the cumulative impacts of loss of housing density in coastal areas or the importance of concentrating development in areas capable of supporting it for purposes of protecting coastal resources on a broader scale. In response to California's persisting housing crisis, however, the Commission has become increasingly concerned about the cumulative impacts of development trends that reduce housing density and increase development pressure in other, potentially sensitive or hazardous areas in the coastal zone.<sup>2</sup>

### **The Certified LUP's Density Limits**

The project site is designated in the certified LUP as a Medium-Density Residential lot. The certified LUP defines medium-density development as follows:

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

The LUP medium-density designation corresponds to the R-2 zone in the City's uncertified zoning code. The certified LUP also includes the following development standards regarding the minimum lot area per dwelling unit for residential parcels based on the zoning designation:

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<sup>1</sup> Refer to [Appendix B](#)

<sup>2</sup> Refer to the staff report for CDP Application No. 5-18-0380 (S.M. Star, LLC)

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

The current development of the site is consistent with the Medium-Density LUP designation in that two residential units are currently available on site. The duplex also complies with the certified LUP's minimum lot area per dwelling unit development standards: with a lot size of 3,300 sq. ft. and a minimum lot area per unit of 1,200 sq. ft. in the R-2 zone, the project site can accommodate up to two on-site residential units. Under the certified LUP, therefore, the existing duplex is a conforming structure and can be retained or the site can be redeveloped with another duplex. The City, however, made changes to the zoning code (including the minimum lot size per dwelling unit standards) that were not reviewed or certified by the Commission for consistency with the Coastal Act. Under the City's current uncertified zoning code, the minimum lot area per dwelling unit for this site is 1,750 sq. ft., which would only allow one unit to be developed on the site. However, the standard of review for a CDP is the Coastal Act and the certified LUP is used as guidance, not the City's uncertified zoning code.

In previous Commission deliberations on similar projects, the City has referenced LUP Section VI.C.1, which includes the following policy and program:

“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.”

At the time that the LUP for Hermosa Beach was certified, the City's General Plan and Zoning Code contained inconsistencies pertaining to land use designations and building standards. However, the LUP was certified by the Commission with portions of the both the Zoning code at the time (Appendix G, detailed above) and the General Plan

(Appendix I, also detailed above). Following certification of the LUP, the City made changes to the zoning code, presumably to be consistent with the General Plan. However, the City's revised Zoning Code was not certified by the Commission and is not the standard of review. Therefore, the Commission must consider the zoning and general plan segments that were certified in the LUP. For the purposes of obtaining a CDP for this project, the proposed development should adhere to the land use designation for the project site and be consistent with the building development standards—including the minimum lot size designation—pursuant to the certified LUP while upholding the LUP's stated goal of maintain existing residential density. In addition, Chapter 3 of the Coastal Act is the standard of review and the *certified* LUP provides guidance as to consistency with Chapter 3, not the City's uncertified zoning code.

### **Application to this Project**

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

Maintaining the existing housing density or even increasing the housing density in areas with a public multi-modal transit system will help to reduce greenhouse gases that contribute to climate change and sea level rise. The project 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 ½ a mile of the subject property, and can easily be accessed by walking, taking local buses, or by bicycle. In terms of regional public transit, the project site is located approximately 0.1 mile. (an approximately four minute walk) from a bus stop on the intersection of Manhattan Avenue and 1st Street. This bus stop is served by the Beach Cities Transit 109 line, which connects the three "Beach Cities (Redondo Beach, Hermosa Beach, and Manhattan Beach)" to El Segundo and LAX. The project site is also located 400 feet (an approximately 2 minute walk) from the closest Commuter Express 438 bus stop, located at the intersection of Manhattan Avenue and Longfellow Avenue. The Commuter Express 438 Bus connects the South Bay Area to Downtown Los Angeles. Thus, the project site is located in an area that is appropriate to maintain density

because it is located in an already densely developed area that contains a multi-modal transit system that connects to the greater Los Angeles region.

Although this project would result in a loss of one residential unit, mitigated to some extent by a proposed ADU, discussed more fully below, the cumulative effect of the loss of residential housing in areas able to accommodate such density likely would increase pressure to develop housing in other areas that do not have adequate public transit and/or public services in the long run, thereby increasing reliance on automobiles (and, potentially, production of greenhouse gases), and in areas that are not appropriate for concentrated development, such as areas vulnerable to coastal hazards and sea level rise. As the recent changes to State housing laws demonstrate, given the existing housing shortages throughout the state, there is tremendous economic and political pressure to develop more housing opportunities; therefore, in the coastal zone, it is important to maintain density in already developed and appropriate areas to ensure protection of coastal resources.

Thus, the LUP policies to protect existing housing stock in Hermosa Beach support and are consistent with the Coastal Act policies encouraging concentrating development in areas that can accommodate more dense development. In this case, the certified LUP allows up to two units on the project site and the area in which the site is located is an existing developed area where duplexes and other multi-family residences are common and is well-served by public transportation and other amenities. In addition, this project does not appear to be an isolated case; the pattern of development in Hermosa Beach involving conversion of duplexes and other multi-family residences to single-family homes means that the potential impacts to coastal resources from reducing housing density at this location, and in an area that is well-able to support it, are likely much more significant.

### **Housing Density and ADU/JADUs**

Given that the existing duplex is a conforming structure under the certified LUP 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 ADU or JADU as a means to mitigate for lost residential units. In the Medium-Density Residential, or R-2 zone, the development of an ADU/JADU in conjunction with a single-family residence on the project site would be consistent with the certified LUP<sup>3</sup>. In addition, an ADU/JADU on the project site appears consistent with recent updates to statewide ADU laws that took effect January 1, 2020, as well as the City's uncertified ADU ordinance adopted on January 14, 2020 (Urgency Ordinance No.20-1403-U).<sup>4</sup>

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<sup>3</sup> The certified LUP does not preclude ADUs/JADUs from being constructed in conjunction with a new or existing single-family residence.

<sup>4</sup> 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

However, in light of a persisting lack of housing supply across the state (particularly in the coastal zone), it has become apparent that replacement of a full housing unit with an ADU/JADU is likely an insufficient approach to preserving housing density in the Coastal Zone. ADUs/JADUs are important mechanisms to increase the potential number of independent housing units that can be rented out separately from the primary residence. Although ADUs are typically designed to function separately from the single-family residence, the ADU is dependent on the single-family residence to serve as a housing unit. The ADU shares utility lines (power, water) with the single-family residence. Furthermore, ADUs cannot be sold separately from the primary residence. This differs from a duplex, where the units can have separate utility connections and could be sold independently from one another, if converted to a condominium. In addition, it is more difficult to enforce the continuous provision of an ADU as compared to a duplex. The Commission, for instance, does not have the authority to require that an ADU/JADU be rented out for the life of the structure. In addition, due to their size, ADUs are more easily left vacant or used by the residents of the primary single-family residence, rather than rented out. Therefore, in this case there is a low degree of confidence that an ADU will be used or rented as a second unit. In this case, the applicant is proposing an attached 731 sq. ft. ADU that would be located on the second floor of the residence. Although the proposed ADU would have a separate exterior entrance (pursuant to the state's ADU requirements), the ADU can easily be incorporated into the primary residence, and is less likely to be rented out as a separate unit than if a detached ADU was proposed on site.

The Commission has, in the past, considered the development of ADUs/JADUs as adequate mitigation for projects that propose to convert duplexes to single-family residences in Hermosa Beach on small R-2 or R-3 lots that can only be redeveloped with a single-family residence under the certified LUP (refer to the table above, derived from Appendix G of the certified LUP).<sup>5</sup> The past Commission approvals of these types of projects were often a compromise approach because there was no other option for a property owner to redevelop a site with an aging residential structure while maintaining the same number of residential units consistent with the LUP.

However, new housing laws that took effect on January 1, 2020 seek to address the statewide housing crisis by encouraging the maintenance of existing multifamily residential density (SB330) and provision of additional accessory dwelling units (Government Code §§ 65852.2, 65852.22). The Housing Crisis Act, in particular, prohibits local governments from approving residential projects that would demolish more "dwelling units" than are created by the project (no net loss). The Housing Crisis

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residential. Under the City's former ADU ordinance, the applicant for this project would not have been permitted to develop an 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 state ADU law (Government Code § 65852.2(a)(4)). And, on January 14, 2020.

<sup>5</sup> Refer to CDP Nos. 5-19-1244; 5-20-0142; 5-20-0223.

Act does not apply to the Commission or modify the Coastal Act. In addition, it appears that the Act's "no net loss" requirement does not apply to this project as to the City, because the applicant submitted a complete application to the City prior to January 1, 2020 (Government Code § 6300(d)(4)). Nevertheless, it appears that the City has taken the position that an ADU satisfies the no net loss requirement of the Housing Crisis Act (**Exhibit 7**). Therefore, the housing trend in Hermosa identified above, to which this project, if approved, would contribute, is likely to continue, as the City's approval of recent projects suggests that it will not deny projects, such as this one, that demolish duplexes and construct single-family residences.

However, as described above, ADUs do not necessarily provide a meaningful residential unit that is comparable to a unit in a duplex or multi-family structure and, in this case, 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.

### **Community Character**

In order to better understand the character of the neighborhood, Commission staff analyzed residential properties within a two-block radius of the project site to identify single-family and multi-family residences (**Exhibit 5**). The analysis found that 2 of the lots surrounding the project site contain commercial developments, 16 of the 37 lots contain single-family residences, 2 of the lots contain triplexes and 17 lots contain duplexes. The residential structures range from 820 sq. ft. to 4,006 sq. ft. in size, with the average structure totaling approximately 2,400 sq. ft.

The results of the community character analysis indicate that the surrounding neighborhood is currently developed with slightly fewer single-family residences than multi-family residences (between 2-3 residential units), which is consistent with the projected pattern of development in the R-2 zone. The proposed residence, at 6,803 sq. ft., is 2,000 sq. ft. larger than the next largest residence and more than 4,400 sq. ft. larger than the average size residence in the area. However, a significant portion of the residence is located within the basement, and the residence complies with the 30-ft. height limit prescribed in the certified LUP. Given that the subject lot can accommodate two residential units, approving a single-family residence (even with an ADU) has the potential to set a negative precedent within the project vicinity. If this project is approved, other similarly-sized lots with multi-family residences within this area could redevelop the lots with single-family residences and effectively downzone an area that was designated in the certified LUP to support primarily two-family development. This runs counter to the certified LUP goal to protect the current diversified mix of housing and would therefore prejudice the ability of the City of Hermosa Beach to develop their LCP consistent with the Chapter 3 Coastal Act policies. On the other hand, a duplex, such as the detached one currently on the project site, is appropriate development in this location and consistent with Section 30251 of the Coastal Act because it is consistent with the certified LUP and compatible with the character of the surrounding area. Thus, there is an alternative form of development that could be approved on the project site. Overall, the character of the neighborhood supports the maintenance of

existing multi-family developments, consistent with Coastal Act Sections 30250 and 30253 with regard to siting development in areas that can accommodate it. 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.

### **Affordable Housing**

The project may also raise potential issues regarding affordable housing. Here, the standard of review is Chapter 3 of the Coastal Act, which does not authorize the Commission to regulate or require affordable housing. That authority was removed from the Coastal Act by the Legislature, and a separate statute, the Mello Act (Government Code Section 65590), establishes requirements for affordable housing in the coastal zone that apply to local governments, not the Commission. However, Section 30604(f) of the Coastal Act, directs the Commission to *encourage* low and moderate income housing opportunities in the coastal zone. It is difficult to predict exactly how housing affordability in Hermosa Beach would be impacted by approval of the proposed project, however, the loss of housing supply on a broader scale is generally associated with increases in housing costs. Denying the project, as recommended by staff, would not be inconsistent with direction in the Coastal Act to encourage affordable housing opportunities. However, long-term planning for concentration of development and encouragement of affordable housing should be done through a City's LCP, as it is more difficult to do in a meaningful way on a project-by-project basis. This issue is further discussed below.

### **Conclusion**

In this case, the proposed project is not consistent with Sections 30250, 30251, and 30253 of the Coastal Act because the project, when viewed cumulatively with other similar projects in the area, does not concentrate development in appropriate areas that can accommodate the existing housing density, and minimize impacts to coastal resources. The neighborhood in which the project site is located is designated in the certified LUP as a Medium-Density Residential Zone (which corresponds to the R-2 zone in the uncertified zoning code), and is largely made up of multi-family residences that contain between two to three residential units per lot. The project site is well-served by public transportation and other amenities and is not located in an area that is subject to coastal hazards. The certified LUP identifies the maintenance of the existing housing stock as a primary goal, and further contains minimum lot size per dwelling unit development standards that allow two units on the subject site. The City, however, made changes to the zoning code (including the minimum lot size per dwelling unit standards) that were not reviewed or certified by the Commission for consistency with the Coastal Act. Under the City's current uncertified zoning code, only one unit could be developed on the site. However, the standard of review for a CDP is the Coastal Act and the certified LUP is used as guidance, not the City's uncertified zoning code. For similar reasons, approval of the project would frustrate policies in the certified LUP designed to maintain existing housing stock and diversified housing options. Therefore, the project could prejudice the ability for the City of Hermosa Beach to develop an LCP

that is consistent with the Coastal Act. For the reasons stated above, the Commission denies the proposed project.

### **C. Public Access**

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in pertinent part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:...

(2) adequate access exists nearby, ...

The project site is located approximately 740 ft. inland from the beach, landward of the first public access road parallel to the sea. The three parking spaces proposed for the project are consistent with the parking standards specified within the certified LUP. The parking spaces would be accessed from 33<sup>rd</sup> Place, an alleyway from which residences along Longfellow Avenue and Highland Avenue access their parking and which does not provide public parking spaces. Furthermore, the project does not propose any curb cuts along Highland Avenue or 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. Therefore, the proposed development would not have any new adverse impacts on public access to the coast or to nearby recreational facilities.

As proposed, the development conforms to Sections 30210, 30211, and 30212 of the Coastal Act. However, the proposed development is not consistent with the development policies found in Chapter 3 of the Coastal Act (as discussed above). Therefore, the project as proposed by the applicant must be denied.

### **D. Water Quality**

Section 30230 of the Coastal Act states:



Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

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

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

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column.

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

The proposed project has the potential to adversely impact the water quality of the nearby Pacific Ocean. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. In order to address post construction water quality impacts, the applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality

the proposed project may have after construction. Roof 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.

For water conservation, any plants in the landscape plan shall be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). The applicant has stated that all landscaping will consist of low water use and non-invasive plants.

The Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act regarding protection of marine resources and water quality. However, the Commission finds that the project, as proposed by the applicant, is inconsistent with the development policies found in Chapter 3 of the Coastal Act (as discussed above). Therefore, the project should be denied.

### **E. Local Coastal Program (LCP)**

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a CDP 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 LUP for Hermosa Beach was effectively certified on April 21, 1982; however, because Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

At the time of its approval, the LUP was generally consistent with the City’s zoning code. Portions of the zoning code at that time- including the Minimum Lot Size per Dwelling Unit development standards- were incorporated into the certified LUP as appendices. However, the zoning code as a whole was not approved as part of the LUP. Subsequent to the Commission’s approval of the LUP, the City has undertaken numerous updates to their local zoning code and portions of it are no longer consistent with the LUP. The City’s zoning code is not the standard of review for development in the City’s coastal zone that requires a CDP. The Chapter 3 policies of the Coastal Act are the standard of review, and the certified LUP is used as guidance.

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

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

The “Statement of Philosophy” is followed by several policies and programs (Section IV.C) to accomplish the goal of establishing and maintaining a diverse housing stock. The LUP identifies the intent of the Land Use Element of the LUP to establish low,

medium, and high density residential zones, and identifies the zoning code to enforce building standards for each of the zones.

The subject site is designated as Limited Multiple-Family Residential (R-2) in both the City's certified LUP and the City's zoning code. R-2 zoned properties allow for single-family and two-family residences. Here, the LUP provides guidance as to a proposed project's consistency with Chapter 3 of the Coastal Act. On R-2 zoned properties, the Residential Zone Requirements in the LUP (found in Appendix G) allow residential development at a rate of one unit per 1,200 sq. ft. (Exhibit 3). The LUP further states that only a single-family residence may be constructed on R-2B zoned lots that are less than 30 ft. in width. The project site has a lot size of 3,300 sq. ft. with a width of 30 ft. Thus, under the certified LUP's Residential Zone requirements, up to two residential units may be developed on the project site. The applicant contends that the minimum lot area per unit regulations in the City's current zoning code prevent the construction of more than one unit on the subject site ([Exhibit 4](#)). However, this zoning code update conflicts with the certified LUP, has not been reviewed or certified by the Commission for consistency with the Coastal Act, and does not constitute the standard of review for this permit. Because the current zoning code has not been certified by the Commission, it is not a standard of review for a project's consistency with the Coastal Act and should not be relied on for the purposes of approving or denying a CDP application.

These uncertified documents contradict the certified LUP policies, in particular the LUP's residential development standards (i.e. the minimum lot size per dwelling unit standards). In addition, the uncertified documents essentially force redevelopment that reduces the existing housing stock in an area that is specifically designated as a multi-family neighborhood. In order to reconcile the discrepancies between the City's certified LUP and the City's uncertified zoning code, the City should submit a comprehensive LUP amendment. If the City does not elect to submit an LUP amendment to address the inconsistency between the residential development standards found in the certified LUP and the City's zoning code, the City should not apply the uncertified zoning code policies to prohibit development in the coastal zone that has otherwise been found to be consistent with the Coastal Act.

Long-term planning for concentration of development and encouragement of housing density and affordable housing should be done comprehensively through a City's LCP, as it is more difficult to do in a meaningful way on a project-by-project basis. However, until an LCP is developed that addresses the above-mentioned issues, the Commission must evaluate each project on a case-by-case basis to ensure that the project will not prejudice the ability for the City to develop an LCP that is consistent with the Coastal Act. In this case, the project proposes to convert a duplex to a single-family residence. The project is inconsistent with Chapter 3 of the Coastal Act and the certified LUP and is part of a broader housing trend in Hermosa Beach of similar redevelopment projects that reduce housing density. Therefore, approval of the project would prejudice the ability of the City to develop an LCP that is in conformity with Chapter 3 of the Coastal Act.

## **F. Project Alternatives**

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property, nor unreasonably limit the owner's reasonable investment-backed expectations of significant economic value on the property. Alternatives to the proposed development exist. Among the possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of all possible alternatives):

### **1. No project**

The applicant could retain the existing detached duplex without structural renovations that would require a CDP. No changes to the existing site conditions would result from the "no project" alternative. The extent to which these units would be affordable is unclear, as the owner could choose to rent the units at market rate. However, if rented, the two units would potentially provide more housing opportunities for more people as compared to one single-family residence with an ADU. In addition, development would continue to be concentrated in an already developed area that is well-served by public transportation and public amenities and does not appear to be threatened by sea level rise, thus, avoiding adverse impacts to coastal resources.

Under Section 30612 of the Coastal Act, if the Commission denies a permit to demolish a structure, the Commission must find, based on a preponderance of the evidence, that retaining the structure is "feasible." The project, as proposed by the applicant, includes demolition of two detached residential units and construction of a new single-family residence.

The residences were constructed in in 1940, before the Coastal Act was passed. The existing structures are approximately 80 years old, which is beyond the anticipated life of a residential structure (structures are typically expected to last for 75 years). However, the applicant has not provided any information to indicate that that it would not be feasible to retain or improve the existing duplex. The project site is also not located in an inherently hazardous area (i.e. ocean-fronting; bluff-backing, nor does it appear that any local regulations require removal of the structure at this time. Therefore, retention of the existing duplex is feasible, and the Commission is under no obligation to approve demolition of the existing structures based on the available information.

### **2. Construct a Duplex**

Alternatively, the applicant could demolish the existing residences and construct a new duplex. This alternative would retain two residential units on site. As stated previously, the project site consists of a 3,300 sq. ft. lot that is located in the R-2 zone. Under the Minimum Lot size per Dwelling Unit standards found in Appendix G of the certified LUP, the project site could accommodate up to two residential units. Therefore, a new duplex would be an allowable use under the certified LUP and could be found to be consistent with the Chapter 3 Coastal Act policies.

Construction of a duplex on the subject lot is consistent with the Coastal Act and is a viable alternative to the proposed single-family residence. Whereas denying the construction of a duplex on the lot based on the City's uncertified development standards (within its uncertified zoning code) for lots designated R2- is not consistent with the City's certified LUP (which has been reviewed by the Commission for consistency with the Coastal Act, hence its certification) and therefore, cannot be found consistent with the Coastal Act at this time. As explained above, under the City's revised standards, only one dwelling unit could be developed per 1,750 sq. ft. in the R-2 zone and, thus, only one residential unit could be developed on the project site. However, because the City's zoning code changes have not been reviewed or certified for consistency with the Coastal Act by the Commission, they are not the standard of review for this project for the purposes of obtaining a CDP. If the City wishes to modify requirements of the certified LUP, it must first obtain Commission approval of those changes in an update or amendment to the certified LUP. Therefore, based on the evidence currently before the Commission, construction of a duplex is a potential alternative to the proposed project.

### **3. Vest Waiver No. 5-17-0823-W**

Another alternative that the applicant could consider is to vest the CDP waiver that has already been approved for the subject property. As stated previously, the Commission approved CDP Waiver 5-17-0823-W on November 9, 2017 authorizing the demolition of the duplex and construction of a 30-ft. high, three-story, 4,776 sq. ft. single-family residence. Although this waiver was approved in 2017, the waiver was never executed, and the property changed owners. This waiver was approved almost three years ago, before the Commission clarified its policies on maintaining housing density, so executing this waiver would result in the loss of one residential unit with no ADU as a partial mitigation measure for the residential unit loss. However, it is worth noting that unlike regular CDPs, De Minimis waivers do not expire. Therefore, the current property owners are within their right to exercise the waiver if they so choose.

## **G. California Environmental Quality Act**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Hermosa Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Hermosa Beach determined

that the proposed development is exempt under Section 15303(a), which exempts construction of a single-family residence in a residential zone from CEQA requirements.

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

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

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. Coastal Development Permit Application Nos. 5-17-0823-W and 5-19-1220 and associated file documents.
2. City of Hermosa Beach Land Use Plan, Certified by the Commission on April 21, 1982.

## APPENDIX B – COMMISSION APPROVALS OF HOUSING DENSITY REDUCTION PROJECTS

| Permit Number | Date Approved | Units Before Project | Units After Project | Net Unit Loss |
|---------------|---------------|----------------------|---------------------|---------------|
| 5-18-0651     | 11/7/2018     | 3                    | 1                   | -2            |
| 5-18-0949     | 3/6/2019      | 2                    | 1                   | -1            |
| 5-18-0827     | 2/7/2019      | 2                    | 1                   | -1            |
| 5-17-1005     | 7/11/2018     | 2                    | 1                   | -1            |
| 5-17-0823-W   | 11/9/2017     | 2                    | 1                   | -1            |
| 5-17-0822-W   | 10/27/2017    | 2                    | 1                   | -1            |
| 5-17-0802-W   | 11/9/2017     | 2                    | 1                   | -1            |
| 5-17-0691-W   | 10/12/2017    | 2                    | 1                   | -1            |
| 5-17-0792     | 3/8/2018      | 2                    | 1                   | -1            |
| 5-17-0285-W   | 6/7/2017      | 3                    | 1                   | -2            |
| 5-17-0040-W   | 5/12/2017     | 2                    | 1                   | -1            |
| 5-17-0100-W   | 5/12/2017     | 5                    | 1                   | -4            |
| 5-17-0016-W   | 2/8/2017      | 1                    | 0                   | -1            |
| 5-17-0030-W   | 2/8/2017      | 2                    | 1                   | -1            |
| 5-16-0628-W   | 9/8/2016      | 2                    | 1                   | -1            |
| 5-16-0153     | 7/14/2016     | 2                    | 1                   | -1            |
| 5-15-1969-W   | 2/11/2016     | 2                    | 1                   | -1            |
| 5-15-1799     | 4/14/2016     | 2                    | 1                   | -1            |
| 5-15-1234-W   | 10/9/2015     | 2                    | 1                   | -1            |

|             |            |   |   |    |
|-------------|------------|---|---|----|
| 5-15-0968-W | 9/15/2015  | 2 | 1 | -1 |
| 5-15-0612-W | 8/12/2015  | 2 | 1 | -1 |
| 5-15-0552-W | 8/12/2015  | 3 | 2 | -1 |
| 5-15-0619-W | 7/9/2015   | 2 | 1 | -1 |
| 5-14-1687-W | 11/18/2014 | 2 | 1 | -1 |
| 5-14-1056-W | 8/13/2014  | 2 | 1 | -1 |
| 5-14-0528-W | 4/11/2014  | 2 | 1 | -1 |
| 5-14-0006-W | 3/12/2014  | 3 | 1 | -2 |
| 5-14-0002-W | 3/12/2014  | 2 | 1 | -1 |
| 5-13-1348-W | 2/13/2014  | 2 | 1 | -1 |
| 5-13-1239-W | 2/13/2014  | 2 | 1 | -1 |
| 5-19-0137   | 09/12/2019 | 2 | 1 | -1 |
| 5-19-0955   | 06/12/2020 | 2 | 1 | -1 |
| 5-19-0195   | 10/17/2019 | 2 | 1 | -1 |
| 5-19-1209   | 11/13/2019 | 3 | 2 | -1 |
| 5-19-1244   | 09/10/2020 | 2 | 1 | -1 |
| 5-20-0142   | 09/10/2020 | 2 | 1 | -1 |
| 5-20-0223   | 09/10/2020 | 2 | 1 | -1 |