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

W15b

Filed: 05/15/20
180 Day: 11/11/20
Tolled 180 Day: 12/11/20
Staff: C. Pereira – LB
Staff Report: 10/16/20
Hearing Date: 11/04/20

STAFF REPORT: REGULAR CALENDAR

Application No.: **5-20-0205**

Applicant: **OFIPLEX LLC**

Agent: Srour and Associates (Attn: Brandon Straus)

Location: 44 The Strand, Hermosa Beach, Los Angeles County (APN: 4188-002-034)

Project Description: Demolition of an existing 2,300 sq. ft. duplex and construction of a three-story, 3,821 sq. ft. single family residence with a 752 sq. ft. attached accessory dwelling unit on the first floor, and a 932 sq. ft. 4-car garage on a 3,595 sq. ft. lot.

Staff Recommendation: Approval with conditions.

Staff Note: Under the Permit Streamlining Act, the timeframe for Commission action on this coastal development permit application is **November 11, 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 timeframes for action on permit applications in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before **December 11, 2020**.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a two-story, 2,300 sq. ft. duplex and to construct a 29’ 6”-high, 3,821 sq. ft., three-story single-family residence with an attached 752 sq. ft. accessory dwelling unit (ADU), a ground-level patio, an attached four-car garage, and

one guest parking space on a 3,595 sq. ft. beachfront lot. Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 140 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 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 project raises hazards concerns under section 30253 of the Coastal Act because it involves development in a low-lying area that is vulnerable to flooding, which may be exacerbated by sea level rise due to the site's oceanfront location; however, the residence is expected to be safe from wave runup and overtopping over the anticipated life of the proposed structure. Given the project's location in a hazardous, flood-prone area, where flooding could endanger human life and property, Commission staff recommends approval of the project with **Special Condition 3,** requiring the applicant to waive any rights to shoreline protection, as well as **Special Condition 6**, requiring the applicant to assume the risks of development in an inherently hazardous area.

Another important 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.

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, 40 previously approved projects have involved conversion of multi-family structures to single-family residences in Hermosa Beach (for a total loss of 45 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. In the most recent Commission action from October 8, 2020, the Commission approved two projects (5-19-1215 and 5-19-1220), both of which mitigated for the loss of a residential unit by including the construction of an ADU or a JADU.

The project site is designated in the certified LUP as a High-Density Residential lot, which corresponds to the R-3 zone in the City's uncertified zoning code. The R-3 zone allows single-family residences, attached/detached multiple-family dwelling units, single-room occupancy facilities (up to six units) and condominium developments (consistent with the City's condominium ordinance). The current duplex on-site also complies with the certified LUP's minimum lot area per dwelling unit development standards: a lot size of 3,595 sq. ft. and a minimum lot area per unit of 950 sq. ft. allows

the subject site to accommodate up to three on-site residential units. Under the City's uncertified zoning code, the minimum lot area per dwelling unit for this site is 1,320 sq. ft., which would only allow two units to be developed on the site. The certified LUP does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. Furthermore, the City's ADU ordinance (which is not a part of the certified LUP), allows for construction of an ADU on the subject site, consistent with statewide ADU laws. And, as noted above, the site is located in a hazardous, flood-prone area, where it may not be necessarily appropriate to concentrate development. In this case, mitigation for the loss of one residential unit with an ADU is a compromise approach, which is an appropriate way to balance the importance of maintaining housing density on a site that is potentially vulnerable to coastal hazards, which will be exacerbated by future sea level rise. Therefore, even though the standard of review is Chapter 3 of the Coastal Act, a single-family residence with an ADU is permitted under the certified LUP and the uncertified zoning code.

In this case, the applicant proposes to offset the loss of a residential unit of 654 sq. ft. by constructing a larger unit (752 sq. ft. ADU) that has its own separate entrance, full kitchen, bathroom, multiple windows, and two tandem parking spaces. The applicant contends that the proposed single-family home is designed as a duplex; however, it was labeled as a single-family residence and an ADU by the applicant to expedite the approval process. 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. In addition, it may be difficult to enforce the continuous provision of an ADU and ADUs are more easily left vacant or used by the occupants of the primary residence. The applicant proposes an interior ingress and egress (door) between the ADU and the primary residence; however, staff recommends removal of the interior door such that the ADU is only accessible through an external door, intended to create a unit for separate use from the primary residence. Therefore, the Commission imposes **Special Condition 1** requiring the applicant to submit revised final plans without the interior ingress and egress between the ADU and the primary residence. Additionally, the Commission imposes **Special Condition 2** requiring the applicant to maintain a single-family residence and an ADU on-site. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 8** requiring that the property owner record a deed restriction against the property, incorporating all of the Special Conditions of this permit.

Commission staff therefore recommends that the Commission **APPROVE** coastal development permit application 5-20-0205. The motion is on page 5.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-20-0205 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Revised Final Plans. PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two sets of final revised project plans that have been reviewed and approved by the City of Hermosa Beach. The final revised plans shall conform with the preliminary plans submitted to the Commission and prepared by SDG Design + Development dated 2/21/20, except that it shall be modified as required below.

A. The plan shall not include the interior ingress and egress (door) between the ADU and the primary residence.

The applicant shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. Retention of a Single-Family Residence and Accessory Dwelling Unit On-Site. The development approved by Coastal Development Permit No. 5-20-0205 is for construction of a single-family residence with a 752 square foot accessory dwelling unit (ADU). The applicant and all assigns/successors shall maintain the ADU as a separate residential unit. At no point may the ADU be incorporated into the single-family residence or converted to a nonresidential use.

3. Waiver of Rights to Future Shoreline Protective Device.

A. By acceptance of this permit, the applicant acknowledges that the development authorized by this permit – including the single-family residence, accessory dwelling unit, attached garage, foundations, and patio – constitutes new development under the Coastal Act, and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

B. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the development authorized by the permit, and restore the site, if:

(1) the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no

feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;

(2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;

(3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or

(4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

In addition, the development approval does not permit encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval.

4. 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, dated February 19, 2019, showing that roof and surface runoff will be captured with downspouts and filtered catch basins, redirected to the municipal storm drain system using a sump pump, and discharged through pop-up emitters. 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 postconstruction 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.

5. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.

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;

G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;

J. The discharge of any hazardous materials into any receiving waters shall be prohibited;

K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;

L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

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

7. Future Development. This permit is only for the development described in coastal development permit (CDP) No. 5-20-0205. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions that would otherwise be provided in Public Resources Code (PRC) Section 30610(a) shall not apply to the development governed by CDP No. 5-20-0205. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP No. 5-20-0205 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition, an amendment to CDP No. 5-20-0205 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit pursuant to PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

8. Deed Restriction. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The applicant is proposing to demolish a two-story, 2,300 sq. ft. duplex that was constructed in 1923, prior to passage of the Coastal Act, and to construct a 29' 6"-high (above the existing natural grade line), 3,821 sq. ft., three-story single-family residence with an attached 752 sq. ft. ADU, a ground-level patio, an attached four-car garage, and one guest parking space in the driveway **(Exhibit 2)**. Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 140 cubic yards of cut.

The subject site is a 3,595 sq. ft., rectangular-shaped lot located 20 ft. inland from the beach, and is within a developed urban residential area approximately 0.6 miles south of the Hermosa Beach Pier **(Exhibit 1).** The project site is designated in the certified LUP as a High-Density Residential lot, which corresponds to the R-3 zone in the City's uncertified zoning code. The R-3 zone allows single-family residences, attached/detached multiple-family dwelling units, single-room occupancy facilities (up to six 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-3 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.

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 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 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 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 40 projects within the last five years that converted multi-family units to single-family residences (a total loss of 45 residential units).[1] 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.[2]

The Certified LUP's Density Limits

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

> HIGH DENSITY: 26 to 40 dwelling units per net acre. Uses in this category would be mostly apartment buildings, which would be required to meet carefully designed standards for building coverage, setbacks, open space and parking. Small lots within the area will result in lower densities in part, existing high densities will be compensated for by these small lots, medium density-spot developments. It is

[1] Refer to Exhibit 5

[2] Refer to the staff report for CDP Application No. 5-18-0380 (S.M. Star, LLC)

intended that all future development in this area shall fall within the specified density range.

The LUP high-density designation corresponds to the R-3 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:

Zone	**Uses**	**Lot Area per Dwelling Unit**
R-1	Single family dwellings, accessory building	1 lot/1 dwelling unit
R-2 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 Professional use- subject to Conditional Use Permit	Same as R-3

The current development of the site is consistent with the High-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 3,595 sq. ft. and a minimum lot area per unit of 950 sq. ft. in the R-3 zone, the project site can accommodate up to three 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 a maximum of three units. 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 1,320 sq. ft., which would allow up to two units to be developed on the site. However, the standard of review for a CDP is the Coastal Act. The certified LUP is used as guidance and the City's uncertified zoning code is neither the standard of review nor used as guidance for this application.

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 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 500 ft. (an approximately two-minute walk) from a bus stop on the intersection of Yacht Club Way and Harbor Drive. 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 500 feet (an approximately two-minute walk) from the closest Commuter Express 438 bus stop, located at the intersection of Hermosa Avenue and 2nd Street. 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.

However, as explained in the Hazards section, the project site is located in an area that is vulnerable to sea-level rise induced flooding. Although the majority of the project site is only vulnerable to flooding under a 6.6-foot sea level rise scenario, it raises a question as to whether it is appropriate to maintain density on beach-fronting lots, which are most vulnerable to coastal hazards. In its consideration of CDP Application 5-19-

0955 (Lesman), the Commission found that a single-family residence with an ADU is appropriate development for beach-fronting lots along this stretch of The Strand, despite the difficulty to enforce an ADU on the site (an issue that will be explained in more detail below). This implies that maintaining two full units on a vulnerable beach-fronting lot may not be appropriate on this site, and that development would be better sited on inland lots that are not subject to the same coastal hazards.

Housing Density and ADU/JADUs

Given that the existing duplex is a conforming structure under the certified LUP that has provided two units since 1923, the re-development of a single-family residence would result in the loss of one existing residential unit. However, the loss would be mitigated by the construction of a larger attached ADU. In previous projects, the Commission has encouraged the development of an ADU or JADU as a means to mitigate for lost residential units, when appropriate. In the High-Density Residential, or R-3 zone, the development of an ADU in conjunction with a single-family residence on the project site would be consistent with the certified LUP.[3] In addition, an ADU 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).[4]

On January 1, 2020, new housing laws went into effect that 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 City has taken the position that an ADU satisfies the no net loss requirement of the Housing Crisis Act. Therefore, it appears that the housing trend in Hermosa identified above 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 **(Exhibit 4).**

From a Coastal Act perspective, ADUs raises concerns as to whether density will, in fact, be maintained in a manner consistent with Coastal Act development policies. Although ADUs are typically designed to function separately from the associated single-

[3] The certified LUP does not preclude ADUS/JADUs from being constructed in conjunction with a new or existing single-family residence.

[4] 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 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.

family residence, the ADU is dependent on the single-family residence to serve as a housing unit. ADUs shares utility lines (power, water) with the associated single-family residence 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. 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.

In this case, the applicant is proposing an attached 752 sq. ft. ADU that would be located on the first floor of the residence. The ADU has been sited on the lowest level of the residence and features a separate exterior entry (pursuant to the State's ADU requirements), its own kitchen and dining area, bathroom, living room, bedroom, storage and two-car tandem parking garage. The entire west wall of the ADU is made up of windows and there is an additional window on the north wall. The ADU design resembles a full residential unit and can be a reasonable accommodation for an individual or a couple. However, although the proposed ADU would have a separate exterior entrance (pursuant to the state's ADU requirements), the applicant proposes an interior ingress and egress (door) between the ADU and the primary residence. Enabling access through an interior door between the primary residence and the ADU increases the likelihood that the ADU will not be rented out and instead would be used by the residents of the primary residence, a risk that is more pronounced than if the applicant had proposed a detached ADU. To address this concern, staff recommends **Special Condition 1**, requiring the applicant to submit revised final plans without the interior ingress and egress between the ADU and the primary residence of the interior door, providing access to the ADU only through an external ingress and egress. Additionally, the Commission imposes **Special Condition 2** which requires the applicant to retain the single-family home and the attached ADU. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 8** requiring that the property owner record a deed restriction against the property, referencing all of the Special Conditions of this permit.

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) limits development on R-3 zoned properties to single-family residences, but does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. The project will contribute to the cumulative loss of housing density in Hermosa. However, in this case, the construction of a single-family residence with an ADU, is a compromise approach to minimize cumulative loss of housing density and balance the potential risk of developing in an area vulnerable to coastal hazards and sea level rise, all while remaining consistent with the certified LUP and the Coastal Act.

Community Character

In order to better understand the character of the neighborhood, Commission staff conducted a survey of residential properties surrounding the project site to identify single-family and multi-family residences. The survey area encompassed the ocean-fronting lots from 2nd street to Herondo Street and totaled 24 lots. Of the 24 lots surveyed, 50% were multi-family residences and 50% were single-family residences. The residential structures range from 818 sq. ft. to 5,029 sq. ft. in size, with the average structure totaling approximately 2,726 sq. ft.

The results of the community character analysis indicate that the surrounding lots are currently developed with a balanced amount of single-family residences and multi-family residences (between 2-4 residential units). The proposed residence of 3,821 sq. ft. is larger than the average residential structure; however, it is within the range of the other single-family residences in the surveyed area. However, as mentioned above, the applicant contends that the proposed single-family home is designed as a duplex but was labeled as a single-family home and an ADU to expedite the approval process. Maintaining two units on site is consistent with the certified LUP goal to protect the current diversified mix of housing. As a single-family home with an ADU on a 3,595 sq. ft. lot, the proposed development is consistent with the certified LUP, which allows for a maximum of three units on the site and the uncertified zoning code, which allows for a maximum of two units on the site.

As mentioned above, the project will contribute to the cumulative loss of housing density in Hermosa Beach. However, in this case, the construction of a single-family residence with an ADU, is a compromise approach to minimize cumulative loss of housing density and balance the potential risk of developing in an area vulnerable to coastal hazards and sea level rise, all while remaining consistent with the certified LUP and the Coastal Act.

As proposed by the applicant and conditioned by the Commission, the project is consistent with Sections 30250, 30251, and 30604 of the Coastal Act pertaining to new development, community character and encouragement of affordable housing.

C. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

> Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the

> use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

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

> (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: …
>
> (2) adequate access exists nearby, …

The project site is located adjacent to The Strand, an approximately 20-ft. wide public lateral walkway **(Exhibit 1)**. The Strand extends for approximately four miles, from 45th Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). Approximately 20 ft. of The Strand is developed with a paved multi-use path used by both residents and visitors for recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. Portions of The Strand contain approximately 5-6 ft. of private encroachments that have been developed by adjacent homeowners pursuant to the City's encroachment permit program. The project site has an encroachment area abutting The Strand, however, it is under a separate permit and not permitted under CDP 5-20-0205. The applicant has provided evidence of payment to the encroachment permit program. The nearest vertical public access to the beach is available via a public walkway, approximately 35 ft. south of the subject site. The project will not adversely impact the public's ability to recreate to and along The Strand.

The project has been designed and conditioned to be consistent with the relevant Coastal Act Chapter 3 policies. However, the project's location adjacent to the beach may cause adverse impacts to coastal views and public access. Section 13250 of the Title 14 California Code of Regulations (CCR) states that internal floor area additions that are less than 10 percent of the current structure's floor area, and height increases of less than 10 percent of the current structure's height, are exempt from permit requirements, given that the structure is between the beach and the first public access road parallel to the beach. However, for the residences adjacent to The Strand, even minimal increases in height or floor area have the potential to impact public beach access routes or close off view corridors from public viewing areas. Therefore, the Commission imposes **Special Condition 7**, requiring the applicant to submit a new CDP application or amendment application for any future improvements, even those improvements that would normally be exempt from permit requirements under Section 13250 of the Title 14 CCR.

As proposed and conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms to Sections 30210, 30211, and 30212 of the Coastal Act.

D. Water Quality

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Section 30232 of the Coastal Act states:

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

Construction Impacts to Water Quality

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

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 5**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In

addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

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 area drains and catch basins 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. While the proposed landscaping consists of non-invasive and drought tolerant plants, future landscaping may not consist of such plants. For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). In order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition 4**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

E. Hazards

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

> “New development shall do all of the following:
>
> (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
>
> (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.”

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area, or

require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project raises potential hazards concerns related to the project site's location on an oceanfront lot, as well its location in a low-lying area that is inherently vulnerable to flooding. Thus, potential hazards issues that must be addressed include the potential for erosion, flooding, wave runup, and storm hazards associated with oceanfront development, as well as the risks of locating development in an area that is currently vulnerable to flooding. Both of these hazards concerns may be exacerbated by sea level rise that is expected to occur over the coming decades. These hazards issues are discussed more fully below.

Sea Level Rise

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise (SLR) rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.[5] Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. On November 7, 2018, the Commission adopted a science update to its Sea level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, "to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development." The most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 ft. and 6.8 ft. by the year 2100, though there is a risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss.[6] The projection is given in a range largely because researchers cannot know exactly how much greenhouse

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

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

gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the "business as usual" scenario (and data suggests temperatures and sea level rise are tracking along the higher projections), the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

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

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

The City of Hermosa Beach completed an initial sea level rise vulnerability assessment in 2014.[7] The report indicates that the City's shoreline is highly vulnerable to change due to the very soft substrate (sand dunes) that were built upon, and the reduced influx of sediment to the littoral cell. The report also indicates that Hermosa Beach has gained significant beach width due to past sand replenishment projects, including replenishment needed to protect Los Angeles' Hyperion Sewage Treatment Plant, and that the structures protecting King Harbor in Redondo Beach, just to the south, serve as

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

a sediment trap that benefits Hermosa's beach area. The report concludes on page 18 that:

> "To the extent future coastal erosion increases as a result of sea level rise and related changes in sediment dynamics, and if future beach replenishment is not maintained, Hermosa Beach should expect a reduction of the protective beach buffer in front of the city. As a result, future flooding and storm surge could have a more destructive and farther-inland reaching impact than if the beach remains stable. In the absence of having [such] a detailed engineering study, the estimates of inland flooding under the higher sea level rise scenario used here thus may not fully capture the extent of potential risks to the city."

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

Coastal Hazards and Shoreline Protection

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

Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

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

For this project, the applicant submitted a Coastal Hazard and Wave Runup Study dated March 6, 2020 prepared by Geosoils, Inc. (GSI) for the subject property. The study concludes that because there is a wide sandy beach (approximately 630 ft. wide) between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. The report finds that this holds true even for an estimated sea level rise (SLR) ranging from 1.25 ft. to 6 ft. However, as stated above, the most recent projections in the statewide SLR guidance indicate that sea levels in this area may rise between 5.5 and 6.8 ft. by the year 2100, and 6.8 ft. of SLR was not analyzed in the applicant's hazards analysis from March 6, 2020. Commission staff requested that the applicant provide a hazard study to account for 6.8 ft. of SLR.

The applicant's response, dated May 11, 2020, stated that the CCC SLR Guidance does recommend the use of the Medium-High Risk Aversion probability for the year 2095, which based upon the Santa Monica Tide Gauge is 6.15 ft. ((6.8 ft + 5.5 ft)/2). The applicant notes that the averaging assumes that SLR is linear between the years 2090 and 2010, but in reality, it is exponential, therefore, the amount of SLR in the year 2095 is closer to 6.0 ft. than to 6.15 ft. GSI's study used 6 ft. in its original analysis, which the applicant states is based upon more current SLR information. The applicant provided a wave runup calculation using 6.15 ft. of SLR and concluded that, even with 6.15 ft. of SLR, wave overtopping waters will likely not reach the seaward side of the subject property under the extreme design conditions.

With regard to the use of 6.8 ft. of SLR requested by Commission staff, staff first followed the methodology outlined in the OPC's 2018 Sea Level Rise document to establish a projected sea level range for the new development. The 2018 OPC guidance uses NOAA tide gauges, a projected project lifespan, and risk aversion scenario to estimate a sea level rise range. The sea level rise analysis assumed a 75-

year projected lifespan for the project, consistent with the Commission's Sea Level Rise Policy Guidance for residential development. According to the 2018 OPC update, the projected sea level rise range for the project site is tied to the Santa Monica NOAA Tide Gauge. This tide gauge estimates a range between 5.5 and 6.8 ft. of sea level rise by 2100 (which falls within the 75-year projected lifespan for the project). With regard to the risk-aversion scenario, both the Commission's Sea level Rise Policy Guidance and the OPC documents recommend a medium-high risk scenario for residential developments. Under a 75-year projected lifespan, a medium-high risk scenario, and the project's location within the Santa Monica NOAA tide gauge, staff estimated 6.8 ft. of sea level rise within the project vicinity.

Using the sea level rise estimates listed above, staff used CoSMoS to analyze the project site's vulnerability to sea level rise impacts. Staff ran the CoSMoS model using a 6.6-ft. sea level rise scenario (the closest available option that was within the determined sea level range) and a 100-year storm scenario to represent the worst-case scenario. Under an estimated 6.6-ft. sea level rise and 100-year storm scenario, the project site is not anticipated to be subject to coastal erosion or wave uprush; however, as discussed, coastal areas are dynamic environments and it is difficult to predict with certainty how any particular project site will be impacted.

In addition, the site is susceptible to coastal flooding under OPC sea level rise projections. According to the applicant, the projected flooding is likely due to ocean water that can possibly travel from King Harbor along the public streets to the site during a 100-year storm **(Exhibit 3).** This projected flooding appears to only affect the landward portions of some properties along The Strand (including the project site), as shown on **(Exhibit 3)**. The projected flooding does not extend throughout the whole beach-fronting Strand area. However, the CoSMoS models show that the flooding originating at King Harbor is exacerbated with sea level rise.

Therefore, the proposed new development, as a beachfront property, may be threatened by sea level rise at some point in the future if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area, which has been the general trend in sea level rise. The project, which includes the demolition of an existing duplex and construction of a single-family residence, constitutes new development. As such, the new single-family residence is not entitled to shoreline protection and the Commission imposes **Special Condition 3** to confirm that the applicant is not entitled to shoreline protection for the development approved by this permit and to waive rights to future shoreline protection. The hazards analysis provided by the applicant's coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards and is not expected to need shoreline protection over the life of the development. However, given the dynamic nature of coastal beaches, as well as the long-term uncertainty of sea level rise models, it is important that the risks of developing on this beachfront lot are borne by the applicant who will benefit from the private development, and not the public. In addition, the proposed development is located in an area where dynamic and unpredictable coastal hazards exist that could adversely

impact the development should the applicant's predictions of flooding and sea level rise prove to be inaccurate. Therefore, the Commission also imposes **Special Condition 6**, which requires the applicants to assume the risk of development.

Only as proposed and conditioned can the project be found to be consistent with Section 30253 with regard to coastal hazards.

F. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 8,** which requires that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. 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.

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.

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

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. City of Hermosa Beach Land Use Plan, Certified by the Commission on April 21, 1982.