

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR DE NOVO

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

Applicant: Corinna Cotsen 1991 Trust

Agent: Sherman Stacey, Gaines and Stacey, LLP

Local Government: City of Manhattan Beach

Local Decision: Approval with Conditions

Appellants: Commissioners Linda Escalante and Mike Wilson

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

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

Demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots and construction of a 9,920 sq. ft. two-story over basement, single-family residence with an attached 845 sq. ft. three-car garage across both lots with a combined total area of 6,287 sq. ft.

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

Same as A-5-MNB-20-0020, except that a merger of the two existing adjacent lots (1312 The Strand is 2,987 sq. ft. and 1316 The Strand is 3,300 sq. ft.) into one 6,287 sq. ft. lot is also proposed.

Staff Recommendation: Deny

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

SUMMARY OF STAFF RECOMMENDATION.

Staff recommends that the Commission deny the proposed project because it is inconsistent with the intent of the High-Density Residential land use designation of the certified LCP. On October 8, 2020, the Commission determined that appeals A-5-MNB-20-0020 & A-5-MNB-20-0041 raised a substantial issue with respect to consistency with the City's certified LCP. The de novo hearing was postponed at the applicant's request.

The proposed development includes the demolition of an existing 1,568 sq. ft. single-family residence on one lot and the demolition of an existing 2,556 sq. ft. triplex on an adjacent lot, a lot merger, and construction of a 9,920 sq. ft. three-story, single-family residence (two stories over basement), with an attached 845 sq. ft. three-car garage over the entire site (both lots). The City-approved project would result in a net loss of three residential units and a reduction of one RH – High Density Residential lot.

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

Therefore, the proposed project is inconsistent with the zoning and residential development policies of the certified LCP. The motions to adopt staff's recommendations can be found on **Page 4**.

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EXHIBITS

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

I. MOTION AND RESOLUTION

Motion I:

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

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

Resolution I:

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

Motion II:

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

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

Resolution II:

The Commission hereby denies Coastal Development Permit No. **A-5-MNB-20-0041** for the proposed development on the ground that the development will not conform with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

A. Project Description and Location

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

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

B. Project History

On January 7, 2020, the City of Manhattan Beach approved a coastal development permit (CDP) application for the proposed project and determined that it was categorically exempt from the California Environmental Quality Act (CEQA) under Section 15303 'New Construction or Conversion of Small Structures', as the proposed construction consists of one single-family residence ([Exhibit 2](#)).

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

On May 21, 2020, a staff report for the appealed project was published, however on June 4, 2020, prior to the public hearing for the appeal, the applicant waived the 49-day

deadline for Commission action on the appeal and requested a postponement of the Commission hearing. The City then revised the previously approved local CDP to incorporate the lot merger (while still not withdrawing or rescinding their previous application). The Commission received a new Notice of Final Action (NOFA) for City of Manhattan Beach Local CDP No. CA 19-21c on July 29, 2020. On August 9, 2020, Commissioners Escalante and Wilson filed an appeal during the ten (10) working day appeal period ([Exhibit 6](#)). No other appeals were received. The City and applicant were notified of the appeal by Commission staff in a letter dated August 11, 2020. On October 8, 2020, the Commission determined that appeals A-5-MNB-20-0020 & A-5-MNB-20-0041 raised a substantial issue with respect to consistency with the City's certified LCP.

C. Development

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

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

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

Section A.12.020 of Chapter 2 of the Certified Implementation Plan (IP) provides that single-family residences are permitted by right on RH properties and that multi-family residential development on RH properties are permitted by right to 5 or fewer units, and 6 or more units can be constructed with a Precise Development Plan or Site Specific Development Plan.

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

The subject lots are located within Area District III (Beach Area), and are zoned Residential High Density, or RH by the Commission-certified LCP. The intent of the RH land use designation is to promote density through the construction of multi-family structures. Development of 1-5 units on RH properties is permitted by right and density of 6+ units is allowed with a Precise Development Plan or Site Development Permit. The City's certified implementation plan allows a minimum of one unit per lot for RH designated properties; thus, the minimum density of the in-situ area of the entire project site is two full residential units. The merger of the two lots facilitates a larger, less dense development pattern than what is contemplated in the Commission-certified LCP. Thus, the proposed project is not consistent with the intent of the RH land use designation of the certified LCP.

Section 30250 of the Coastal Act states, in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, **shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it** or, where such

areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.
[Emphasis added]

Although Section 30250 of the Coastal Act is not a standard of review for this appeal, the Commission-certified LCP is. Clearly, the merging of the two RH designated lots reduces the density potential contemplated for this specific delineated area of the City by approximately half. The RH area of the City is specifically planned to house more dense development than other areas of the City. As a result, the project raises significant questions as to the project's consistency with the LCP, which allows for and promotes density in this area through construction of multi-family structures.

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

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

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

a result of the statewide housing crisis, it is becoming increasingly important to maintain and concentrate development in already developed and appropriate areas in order to ensure that coastal resources are protected.

The RH area of the City is specifically planned to house more dense development than other residential areas in the City. Thus, because other areas, specifically those without the RH land use designation, restrict density, it is appropriate to maintain or even increase rather than reduce density in areas with the RH designation. Therefore, in this case, the merging of two RH designated lots essentially circumvents the density requirements prescribed by the RH designation in the certified LCP to allow 0.5 units on the current (prior to merger) lots, instead of one, thereby achieving a lower density than is specified by the Commission-certified LCP and originally planned for in this area.

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

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

D. COMMUNITY CHARACTER

Chapter II of the IP includes the following policies:

A.01.030. Purposes

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

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

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

Local Coastal Plan.

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

- D. Provide appropriately located areas for residential development that are consistent with the Local Coastal Plan and with standards of public health and safety established by the City Code.
- E. Ensure adequate light, area, privacy, and open space for each dwelling and protect residents from harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects.
- F. Protect adjoining single-family residential districts from excessive loss of sun, light, quiet, and privacy resulting from proximity to multifamily development.
- G. Encourage reduced visual building bulk with effective setback, height, open space, site area, and similar standards, and provide incentives for retention of existing smaller homes. Include provision for an administrative Minor Exception procedure to balance the retention of smaller older homes while still allowing for flexibility for building upgrades below the minimum allowable square footage.

Although the City's LCP currently lacks robust policies that would explicitly prohibit the loss of residential units, it does contain zoning and land use designations designed to promote and maintain density and community character. Within Manhattan Beach, the coastal zone only extends approximately six to eight blocks inland of the beach. With the exception of a few lots within this small area of the City, most of the lots zoned for residential use are either zoned Medium or High Density. Most of the single-family/low density zoned lots within the City are outside of the coastal zone. Thus, the character of residential development within the coastal zone of the City is primarily multi-family/higher density, especially near the pier, where the subject lots are located

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

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

LCP intended for the area surrounding the project site to accommodate multi-family residential development.

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

Therefore, the size of the proposed structure, the use of the two sites for one single family residence, and the resulting large lot size would be inconsistent with the community character as it would facilitate a larger, less dense development pattern than what is intended by the RH designation in the Commission-certified LCP. Thus, the use of the two lots for one single-family residence, and the resulting large lot size is inconsistent with the community character of the area as described by LCP policies regarding residential development. The development proposed by the applicant is therefore not consistent with the community character policies of the LCP and should be denied.

E. Project Alternatives

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

No project

The applicant could retain the existing triplex and single-family residence on the two lots without structural renovations that would require a CDP. No changes to the existing site conditions would result from the “no project” alternative. In addition, development would continue to be concentrated in an already developed area that is well-served by public transportation and public amenities.

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

Construct new Multi-Family Structures

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

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

F. WATER QUALITY

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

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

The project site is located on two oceanfront lots, and is therefore vulnerable to erosion, flooding, wave runup, and storm hazards. These hazard risks are exacerbated by sea-level rise that is expected to occur over the coming decades. The proposed project includes construction of a basement and a subterranean garage ([Exhibit 2](#)) The applicant has not submitted any information with regard to the location of the groundwater table in this location, where the groundwater level is in relationship to the proposed basement, or whether the basement would need to be dewatered during or after construction.

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

Furthermore, the proposed project does not account for changes to the groundwater level overtime that could occur with sea level rise. Sea-level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea-level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea-level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea-level from space indicate an average global rate of sea-level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years. Recent observations of sea-level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea-levels to rise at an accelerating rate throughout this century.

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

G. LOCAL COASTAL PROGRAM

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

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

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

feasible alternatives exist which would lessen significant adverse impacts that the proposed project would have on the environment. Therefore, the Commission denies the proposed project because of the availability of environmentally preferable alternatives.

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