

CALIFORNIA COASTAL COMMISSION

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Th13d

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Hearing Date: 12/10/20

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-20-0310

Applicant: WPBA Trust (Attn: John Watters)

Agent: Stephan Mundwiler

Location: 1301 Palisades Beach Road, Santa Monica, Los Angeles County (APN: 4291-031-043)

Project Description: Demolition of an existing 1,298 sq. ft. triplex and construction of a four-story, approximately 40-ft high, 2,604 sq. ft. single-family residence with an attached 500 sq. ft. ADU with a new driveway and curb cut, 2-car attached garage, and roof deck on a 2,500 sq. ft. lot.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a 1,298 sq. ft. triplex constructed prior to adoption of the Coastal Act and construct a four-story, approximately 40-ft high, 2,604 sq. ft. single-family residence with an attached 500 sq. ft. ADU with a new driveway and curb cut, a two-car attached garage, and roof deck on a 2,500 sq. ft. lot. The proposed first floor is partially below grade (2 ft.) at the seaward side of the proposed development. The project site is a beachfront lot located approximately 900 ft. inland from the beach. The standard of review for this project is Chapter 3 of the Coastal Act and the certified Land Use Plan (LUP) for Santa Monica provides guidance.

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

Here, the project must be viewed in the context of broader housing trends in the coastal zone as well as the significant housing crisis throughout the state. In the City of Santa Monica, data from 1984-2018 shows that there is an increasing trend in housing density in the Coastal Zone in that 532 units have been demolished in the Coastal Zone and 2,139 units have been built within the 34-year time period. In recent actions, the Commission has expressed concern with projects that contribute to the decreasing trend/cumulative loss of housing density in the region.

The Commission has, in some cases, approved ADUs/JADUs as mitigation for projects that would result in a loss of density, typically in situations where an existing multi-family structure was non-conforming with the density specifications or other development standards of a certified LUP and it was not possible to replace the lost unit with a full replacement unit. In this case, the structures on the project site are legally nonconforming, meaning that they were consistent with applicable requirements at the time that they were built, but they no longer conform to the Santa Monica certified LUP, nor the uncertified zoning code. The project site is designated in the certified LUP as a Low-Density Multiple Residential lot, which allows one unit per 1,500 square feet of lot area, and on this site would only support one residential unit on the lot. A triplex also would not comply with the City's uncertified zoning code, which designates the site as an R2-BCH zoned lot that is north of the pier and west of Ocean Avenue and that can only accommodate one unit per lot.

The certified LUP, however, does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. The current triplex totals 1,298 sq. ft., with each unit under 500 sq. ft. Given the lot size of 2,500 sq. ft., the applicant proposes to offset the loss of two residential units by constructing an attached 500 sq. ft. ADU with a separate entrance, kitchen, bathroom, and multiple windows. To ensure that the ADU is only accessible through an external door and will create a unit for separate use from the primary residence, Commission imposes **Special Condition 1** requiring the applicant to submit revised final plans with a 500 sq. ft. ADU and without an 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 and ensuring that the units are not used as short-term rentals without owner occupation. 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 7** requiring that the property owner record a deed restriction against the property, incorporating all of the Special Conditions of this permit.

5-20-0310 (WPBA Trust)

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-20-0310 with **seven** special conditions. The motion and resolution can be found on page 5.

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

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[Exhibit 3 – Units Demolished and Built from 1984-2018 in Santa Monica’s Coastal Zone](#)

MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-20-0310 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby 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.

I. STANDARD CONDITIONS

This permit is granted subject to the following 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 permittee 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

II. 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 Santa Monica. The final revised plans shall conform with the preliminary plans submitted to the Commission and prepared by leeMundwiler architects, inc. dated 12/27/19, except that it shall be modified as required below.
 - A. The plan shall include an ADU that is a minimum of 500 sq. ft.
 - B. The plans shall not include any interior ingresses and egresses (doors) 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 Two Onsite Units.** The development approved by Coastal Development Permit No. 5-20-0310 is for construction of a single-family residence with a 500 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. Additionally, the units may not be used as short-term rentals without owner occupation.

3. **Waiver of Rights to Future Shoreline Protective Device.**

A. By acceptance of this Permit, the applicant acknowledges and agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-20-0310 including, but not limited to, the single-family residence, accessory dwelling unit, attached garage, foundations, and patio including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) 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 it is 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, dated December 27, 2019, showing that roof and surface runoff will be captured and filtered with grate inlet/catch basins, lined with sandbags around the inlet. 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.

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. 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.

III. FINDINGS AND DECLARATIONS

A. Project Description and Location

The applicant is proposing to demolish a 1,298 sq. ft. triplex that was constructed in 1923 and 1930, prior to passage of the Coastal Act, and to construct a 40-ft high (above the existing natural grade line), 2,604 sq. ft. single-family residence with a 500 sq. ft. accessory dwelling unit with a new driveway and curb cut, a two-car attached garage, and roof deck on a 2,500 sq. ft. lot ([Exhibit 2](#)). The current triplex consists of two structures, one is 864 square feet and includes two units and the second is 434 square feet and includes the third unit. The proposed project received an approval in concept from the City of Santa Monica Planning Department on April 9, 2020. Non-invasive, drought tolerant landscaping is proposed for the project.

The project site is a 2,500 sq. ft., rectangular-shaped lot located approximately 35 ft. inland from the inland extent of the sandy beach and is approximately 0.35 miles north of the Santa Monica Pier ([Exhibit 1](#)). The subject lot is located within a row of residentially developed lots and public beach parking lots. The project site is designated

in the Santa Monica certified LUP as a Low Density Multiple Residential lot. Per the certified LUP, the subject lot allows one unit per 1,500 square feet of lot area. The lot is designated as R2-BCH in the City's uncertified zoning code. The R2-BCH zone, which is Multi-Family Residential, allows one dwelling unit to be permitted on any legal parcel which existed on September 8, 1988 (which is the case here). The current development is legally nonconforming to the density standards of the certified LUP as well as the uncertified zoning code. The proposed development (a single-family residence with an ADU) is permitted on the subject site, per the certified LUP and the uncertified City zoning code.

The Land Use Plan (LUP) for Santa Monica was effectively certified on September 15, 1992 upon the City's adoption of the Commission's suggested modifications, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District). The project site is in the Beach Overlay District. The City does not yet have a certified Implementation Plan. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review and the certified LUP is 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...

Policy 56 of the LUP states:

Whenever the Local Coastal Program or implementing documents set forth development standards, the development standard shall not be considered entitlements but shall be considered the maximum development intensity that may be authorized.

Policy 58 of the LUP states:

New development 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 a significant adverse effects, either individually or cumulatively, on coastal resources.

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.

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

Housing Trends in Santa Monica

The proposed development would result in the demolition of a triplex and the proposed development would result in a single-family residence with an ADU. The applicant has stated that the triplex has been functionally used as a single-family residence of 1,298 sq. ft. for the past couple decades.

In response to California's persisting housing crisis, 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. 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. In other beach cities in the region, such as Hermosa Beach, there is an apparent trend of converting multi-family residential developments into single-family homes. However, this trend does not seem to exist in Santa Monica. In fact, there is an apparent trend of development in Santa Monica of more units being built in the Coastal Zone than being demolished ([Exhibit 3](#)). Santa Monica Coastal Zone housing data from 1984 to 2018 shows 532 units have been demolished and 2,139 units have been built in the Santa Monica Coastal Zone, resulting in an overall net gain of 1,375 units in the Coastal Zone throughout the 34-year period.¹

Given that there are more units being built than demolished within the Coastal Zone of Santa Monica, where the subject site is located, the project will not likely contribute to the trend in decreasing housing density in the Coastal Zone, as is taking place in other beach cities in the region, such as Hermosa Beach. For example, the Coastal Commission has approved at least 40 projects since 2014 that converted multi-family units to single-family residences (a total loss of 45 residential units) in Hermosa Beach.² Therefore, while there is a trend of cumulative loss of housing density in other cities, such as Hermosa Beach, there is an apparent cumulative increase in housing density in the Santa Monica Coastal Zone in the past 34 years, and the project is therefore not likely to adversely impact housing density trends in Santa Monica.

Certified LUP's Density Limits

The project site is in a land use district designated in the certified LUP as a Low-Density Multiple Residential lot. The certified LUP also includes development standards regarding the minimum lot area per dwelling unit for residential parcels based on its designation. In this case, the lot is in a residential district that can accommodate one unit per 1,500 square feet. The current development of the site is inconsistent with the

¹ Refer to Table 3-28 at <https://www.smgov.net/uploadedFiles/Departments/PCD/Plans/General-Plan/Housing-Element/City%20of%20Santa%20Monica%20HE%202013-2021%20FINAL.pdf>. Data from 2013-2018 was provided by the City of Santa Monica Planning Division.

² Refer to Exhibit 5 in CDP 5-20-0205

development standards of the certified LUP for this lot in that three residential units are currently available on site. However, the lot is in Subarea 1a which is included in the Proposition S Beach Overlay District which was deferred from certification.³ Nevertheless, the certified LUP may be used for guidance. The triplex also does not comply with the certified LUP's minimum lot area per dwelling unit development standards: with a lot size of 2,500 sq. ft. and a minimum lot area per unit of 1,500 sq. ft., the project site can only accommodate one on-site residential unit. According to the City's uncertified zoning code, the current structures are also legally nonconforming in that the lot is R2-BCH and the subject site is located within a specified area north of the pier and west of Ocean Avenue which allows one dwelling unit per parcel for legal parcels that existed on September 8, 1988. The code further states that no more than one dwelling unit shall be permitted on a parcel 40 feet or less in width.⁴ In this case, the lot is 25 feet in width. Under the certified LUP, therefore, the existing triplex is a nonconforming structure and can either be retained or redeveloped with a single-family residence. As stated in Policy 56 of the LUP, the standards of the LUP represent the maximums, but are not automatic entitlements. Here, the proposed development has been designed to stay within the maximums outlined in the standards which would bring the proposed development to conformity with the certified LUP standards. Furthermore, under the draft Santa Monica LUP which is being updated and has not been certified by the Coastal Commission yet, the subject site in Subarea 1a allows one unit per 2,000 square feet per the development standards.⁵ Therefore, the proposed project also complies with the above certified LUP policies and the development standards and will not prejudice certification of the LCP.

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

³ City of Santa Monica Land Use Plan.

[https://www.smgov.net/uploadedFiles/Departments/PCD/Plans/Local-Coastal-Plan/LCP%20Land%20Use%20Plan%201992\(1\).pdf](https://www.smgov.net/uploadedFiles/Departments/PCD/Plans/Local-Coastal-Plan/LCP%20Land%20Use%20Plan%201992(1).pdf)

⁴ http://www.qcode.us/codes/santamonica/view.php?topic=9-2-9_08&showAll=1&frames=on

⁵ <https://www.smgov.net/uploadedFiles/Departments/PCD/Plans/Local-Coastal-Plan/LUP%20FINAL%20DRAFT%2011.19.18.pdf>

into adjacent undeveloped areas, which may contain sensitive coastal resources, such as the nearby Santa Monica Mountains.

Maintaining the existing housing density that conforms to the certified LUP 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 residentially-zoned area where numerous residential opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within ½ a mile of the subject property, and can easily be accessed by walking, taking local buses, or by bicycle. In terms of regional public transit, the project site is located approximately 0.1 mile (an approximately four-minute walk) from a bus stop on the intersection of Ocean Avenue and Arizona Avenue. Thus, the project site is located in an area that is appropriate to maintain density that conforms to certified development standards because it is located in an already densely developed area that contains a multi-modal transit system.

In this case, the current triplex on the subject site is 1,298 sq. ft with a total of two structures. One structure is 864 square feet and includes two units and the second structure is 434 square feet. It should be noted that the size of these structures are currently all under 500 sq. ft. Furthermore, as mentioned above, the applicant states that the current triplex on site has been used as a single-family residence for the past two decades, although it is labeled as a 1,298 sq. ft. triplex. Although this project would result in a loss of two traditional housing residential units, although such loss would be mitigated to some extent by a proposed attached 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 mentioned above, the lot is only allowed to be redeveloped with one traditional housing residential unit, per the certified LUP and the uncertified zoning code.

Additionally, as previously noted, it appears that the loss of housing density is not part of a broader trend in the Santa Monica Coastal Zone and, therefore, approval of the project, and a reduction in housing density at this location, is not likely to significantly impact coastal resources elsewhere in the Coastal Zone. The site is nonconforming to the certified LUP, since there needs to be a minimum of 1,500 square feet per unit on this lot. As stated in Policy 58, new development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it. In this case, even though the area is well-served by public transportation and other amenities, the certified LUP only allows one unit on the project site and the area in which the site is located is an existing developed area where the majority of the residences are single-family residences.

Housing Density and ADU/JADUs

In previous projects, the Commission has encouraged the development of an ADU or JADU as a means to mitigate for lost residential units. The development of an ADU/JADU in conjunction with a single-family residence on the project site is consistent with the certified LUP, which designates this site as Low Density Multiple Family.⁶ In addition, an ADU/JADU on the project site appears consistent with recent updates to statewide ADU laws that took effect January 1, 2020.

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). Although these laws are not the standard of review for the Commission when reviewing a CDP application, they reveal the legislature’s intent to protect existing housing units and density and can provide some context for other applicable laws when the Commission implements the Coastal Act requirements to concentrate development in existing developed areas and to minimize vehicle miles traveled.

The Commission has in some cases in the past considered the development of ADUs/JADUs as adequate mitigation for projects that propose to convert multi-family residences (typically duplexes) to single-family residences on small lots that can only be redeveloped with a single-family residence under applicable certified LUPs. The past Commission approvals of these types of projects were often a compromise approach because there was no other option for a property owner to redevelop a site with an aging residential structure while maintaining the same number of residential units consistent with the LUP.

In this case, Commission staff requested that the applicant provide a feasibility study to show the possibility of providing both a JADU and an ADU with the single-family residence. The applicant responded that in order to have both the JADU and ADU, which is the only option available to include both units according to the uncertified City Code,⁷ the ADU would have to be detached (due to building codes). Due to the lot size of 2,500 sq. ft., the requirement to maintain a 6-ft setback between the primary residence and the detached ADU, the applicant contends that the single-family residence would be reduced to 1,700 sq. ft. in order to accommodate both the JADU and the ADU on-site, and would result in a significantly smaller, detached ADU of 221 sq. ft. Given the constraints of the lot size and the setback requirements for a detached

⁶ The certified LUP does not preclude ADUs/JADUs from being constructed in conjunction with a new or existing single-family residence.

⁷ City of Santa Monica Ordinance No. 2649

ADU, the applicant argues that the attached ADU is the only feasible option and will allow for a larger ADU of 500 sq. ft to be provided on site.

Therefore, to address the constraints of redeveloping on a small lot, and the certified LUP's development standards, the applicant revised the project description to include an attached ADU. **Special Condition 1** requires the applicant to submit revised final plans with the 500 sq. ft. ADU and with no interior doors between the single-family residence and the ADU, intended to create a unit for separate use from the primary residence. Additionally, the Commission imposes **Special Condition 2** which requires the applicant to retain the single-family home and the attached ADU as separate from the single-family residence and not be converted to a nonresidential use. In addition, **Special Condition 2** requires that the units are not used as short-term rentals without owner occupation. The ADU is consistent with the state and local government development standards for ADUs, and in this case would serve to address the Coastal Act requirements that require concentration of development in existing developed areas, pursuant to Section 30250 of the Coastal Act, given that the subject lot cannot be redeveloped with a triplex under the certified LUP.

Thus, the project, as conditioned, with one residential unit and an ADU is consistent with Sections 30250 and 30253 of the Coastal Act.

Community Character

In order to better understand the character of the neighborhood, Commission staff analyzed 32 residential properties surrounding the subject site adjacent to Ocean Front Walk to identify single-family and multi-family residences. The analysis found that 9 of the 32 lots surveyed contained multiple-family residences and 23 of the 32 lots surveyed contained single-family residences. The residential structures range from 1,184 sq. ft. to 5,875 sq. ft. in size, with the average structure totaling approximately 2,797 sq. ft. The lot sizes range from 2,500 sq. ft. to 5,000 sq. ft with the most frequently occurring lot size as 2,500 sq. ft.

The results of the community character analysis indicate that the surrounding neighborhood is currently developed with mostly single-family residences. The proposed residence, at 3,104 sq. ft., is approximately 300 sq. ft. larger than the average size residence in the area. However, 500 sq. ft. of the proposed residence is an ADU; therefore, the single-family residence will be 2,604 sq. ft which is slightly smaller than the average size residence in the area (2,797 sq. ft.). Given that the existing triplex is currently nonconforming, and the certified LUP only allows one full residential unit on 2,500 sq. ft. lots, the certified LUP would not allow for two or three full residential units to be developed on site. Additionally, the uncertified zoning code only allows one unit on this site. Thus, there is no alternative form of housing density development with more residential units that could be approved on the project site. A single-family residence is appropriate development in this location and consistent with Section 30251 of the Coastal Act because it is consistent with the certified LUP and compatible with the character of the surrounding area, which is mostly composed of single-family residences on similar or larger sized lots.

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

Conclusion

In this case, the proposed project is consistent with Sections 30250, 30251, and 30253 of the Coastal Act because the project, when viewed cumulatively with other similar projects in the Coastal Zone in Santa Monica, does not contribute to any apparent cumulative impacts of development trends that reduce housing density. In fact, as discussed above, the trend in the Coastal Zone in Santa Monica has been to increase housing density. The certified LUP only allows one residential unit to be on site if the lot is to be re-developed and, under the City's uncertified zoning code, only one unit could be developed on the site. However, the standard of review for a CDP is the Coastal Act and the certified LUP is used as guidance, not the City's uncertified zoning code. In this case, mitigation for the loss of one of the two residential units with an ADU is a compromise approach because there is no other option for a property owner to redevelop the site and the aging residential structure while maintaining the same number of housing units, consistent with both the LUP and the uncertified zoning code.

As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Sections 30250, 30251, and 30253 of the Coastal Act pertaining to concentration of new development, reducing vehicle miles traveled, and community character.

C. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

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

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

(2) adequate access exists nearby, ...

The project site is located approximately 900 ft. inland from the beach, between the first public access road and the sea. The lot fronts Ocean Front Walk, a 20 ft. wide pedestrian promenade. Directly west to the promenade is an approximately 16 ft. wide bicycle path, which runs along the sandy beach. The nearest vertical public access to the beach is available via a public parking lot approximately 150 feet north of the project site. The residential structure will be setback 15 feet from the centerline of the promenade consistent with City requirements and past Commission permit action on development along this area.

The proposed project includes the construction of a two-car parking garage and a curb cut, which would be accessed from Palisades Beach Road. Currently, there are no parking spaces on site and the project would result in two parking spaces on site. The site can only be re-developed with parking spaces on-site to bring the lot into conformity with City standards, and there is no other alternative than to create a curb cut to provide on-site parking. The proposed residence also adheres to the height and setback requirements set forth in the certified LUP. Therefore, the proposed development would not have any new adverse impacts on public access to the coast or to nearby recreational facilities.

As proposed, the development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, 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 sand bags 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 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.⁸ 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 feet and 6.8 feet 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.⁹ The projection is given in a range largely because researchers cannot know exactly how much greenhouse 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.

⁸ <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

⁹ 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.

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.

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.

In order to analyze the project site for sea level rise impacts consistent with the Coastal Commission's Sea Level Rise Guidance, 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 feet 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 feet of sea level rise within the project vicinity.

Using the sea level rise estimates listed above, Commission staff used CoSMoS to analyze the project site's vulnerability to sea level rise impacts. Staff ran the CoSMoS model using a 6.6-foot 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-foot sea level rise and 100-year storm scenario, the project site is not anticipated to be subject to coastal erosion, wave uprush, or coastal flooding; however, as discussed, coastal areas are dynamic environments and it is difficult to predict with certainty how any particular project site will be impacted.

The project, which includes the demolition of an existing triplex and construction of a single-family residence with an attached ADU, constitutes new development. As such, the new single-family residence and ADU are 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, including the

residence, ADU, garage, foundations, and patio, and to waive any rights to future shoreline protection that it might have under existing law. In addition, the applicant would be required to remove the approved development if 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 coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. In addition, the public trust boundary may migrate landward in response to rising sea levels.¹⁰ If the public trust boundary does migrate landward and encompasses the development approved under CDP No. 5-20-0310, the development would need to be removed pursuant to **Special Condition 3**.

Additionally, 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 applicant to assume the risk of development within an area with a known vulnerability to coastal hazards, including, but not limited to, coastal flooding.

As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Section 30253 of the Coastal Act with regard to coastal hazards.

F. Local Coastal Program (LCP)

The Coastal Act requires that the Commission consider the effect on a local coastal program when it approves a project. Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local

¹⁰ The Public Trust boundary separates tidelands, submerged lands, and navigable waterways protected for public use from privately owned lands. For more information on public trust lands, visit <https://www.slc.ca.gov/public-engagement/>.

coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). The City of Santa Monica Land Use Plan (LUP) was effectively certified in August 1992, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Santa Monica LUP is advisory in nature and may provide guidance.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. California Environmental Quality Act

Section 13096 of 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 Santa Monica is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Santa Monica 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 Santa Monica Land Use Plan