

**CALIFORNIA COASTAL COMMISSION**

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# Th13e

Filed: 11/04/20  
180<sup>th</sup> Day: 05/03/21  
Staff: V. Lee-LB  
Staff Report: 11/20/20  
Hearing Date: 12/10/20

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-20-0530

**Applicant:** Lael Stabler & Jerry English

**Agent:** Michael Lee Architects, Inc.

**Location:** 66 18<sup>th</sup> Street, Hermosa Beach, Los Angeles County  
(APN: 4183-007-010)

**Project Description:** Demolish an existing 2,816 sq. ft. 2-story duplex and construct a 3,755 sq. ft. 3-story single family residence with a 310 sq. ft. roof deck, a 460 sq. ft. attached junior accessory dwelling unit (JADU), an attached 2-car garage, and one guest parking space in the driveway.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The applicants are proposing to demolish an existing two-story, 2,816 sq. ft. duplex and to construct a 30' high, 3,755 sq. ft., three-story single family residence with a 310 sq. ft. roof deck, an attached 2-car garage, and one guest parking space in the driveway ([Exhibit 2](#)). The residence includes an attached 460 sq. ft. junior accessory dwelling unit (JADU) with a separate entry, bedroom, kitchen, bathroom, and a 122 sq. ft. outdoor patio on the ground floor level of the proposed structure. Non-invasive, drought tolerant landscaping is proposed for the project. The applicants are also proposing 105 cubic yards of grading to be exported outside the coastal zone. The project site is well-

served by public transportation and other amenities and is not located in an area that is subject to coastal hazards.

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

The primary issue raised by this project concerns the cumulative effects of loss of housing density as a result of demolition of the existing duplex and construction of a single-family residence. As proposed, the project would eliminate 1,211 sq. ft. and 1,595 sq. ft. units and construct a 3,755 sq. ft. single family residence that includes a 460 sq. ft. JADU. 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(d)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

The project must be viewed in the context of broader housing trends in the coastal zone as well as the significant housing crisis throughout the State. Evidence before the Commission establishes that the project is not an isolated case; rather, since 2014 the Commission has approved at least 40 projects that converted multi-family developments to single-family residences in Hermosa Beach (for a total loss of 45 residential units) ([Exhibit 3](#)). In recent actions, the Commission has expressed concern with similar projects and the cumulative loss of housing density and has in the past strongly encouraged the construction of accessory dwelling units to mitigate for demolished units. At the same time, however, the Commission has questioned whether ADUs adequately mitigate for the loss of housing density that results from demolition of duplexes and other multi-family developments.

On the subject site, a duplex would be consistent with the certified LUP. The project site is designated in the certified LUP as a medium density residential lot (14-25 DU/AC), which corresponds to the R-2B zone in the City's uncertified zoning code. The Residential Zone Requirements in the certified LUP state that a minimum of 1,200 square feet is required for each dwelling unit on an R-2B lot. The project site has a lot size of 2,850 square feet, which meets the minimum lot size per unit requirement for 2 units under the LUP.

However, the City's current Zoning Code prohibits the development of a multi-family residence on this 2,850 sq. ft. lot, as it requires 1,750 sq. ft. of lot area per dwelling unit in the R-2B zone. Therefore, denying this application due to the loss of density could make it difficult for the applicants to get a project approved by the City because they cannot comply with both the City's uncertified Zoning Code and the maximum density allowed by the certified LUP. While the zoning code is not the Commission's standard of review for the project, such that denial could be required, in this case there is a

compromise approach that allows the retention of two residential units through approval of a single family residence with a JADU. This compromise approach allows redevelopment of the aging existing duplex and still mitigates the proposed reduction of housing density on the subject site.

The certified LUP does not preclude ADUs from being developed in conjunction with a new or existing single-family residence, and the City's ADU ordinance (which is not a part of the certified LUP) also allows for construction of a JADU and ADU on the subject site, consistent with statewide ADU laws. Therefore, in this case, mitigation for the loss of one residential unit by including the construction of a JADU is a compromise approach to allow the property owner to redevelop the site and the 55 year old residential structure while maintaining the same number of housing units, consistent with both the LUP and the uncertified Zoning Code.

In this case, the applicants propose to offset the loss of a residential unit of 1211 sq. ft. by constructing a smaller unit (460 sq. ft. JADU) that has its own separate entrance, full kitchen, bathroom, and multiple windows). ADUs/JADUs are important mechanisms to increase the potential number of independent housing units that can be rented out separately from the primary residence. However, ADUs are dependent on the primary residence to serve as a housing unit and cannot be sold separately from the primary residence. In addition, it may be difficult to enforce the continuous provision of an ADU and ADUs are more easily left vacant or used by the occupants of the primary residence. The applicants propose multiple interior ingress and egress (doors) between the JADU and the primary residence; however, staff recommends removal of the interior doors such that the JADU is only accessible through an external door, intended to create a unit for separate use from the primary residence. Therefore, the Commission imposes **Special Condition 1** requiring the applicants to submit revised final plans without the interior ingress and egress between the JADU and the primary residence. Additionally, the Commission imposes **Special Condition 2** requiring the applicants to maintain a single-family residence and a JADU on-site. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 5** requiring that the property owners record a deed restriction against the property, incorporating all of the Special Conditions of this permit.

Therefore, Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-20-0530 with five special conditions. The motion and resolution can be found on Page 5.

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**EXHIBITS**

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Commission Approvals of Housing Density Reduction Projects](#)

## MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-20-0530 as set forth in the staff recommendation.

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

### Resolution:

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

## 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 applicants 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 applicants to bind

all future owners and possessors of the subject property to the terms and conditions.

## **SPECIAL CONDITIONS**

**1. Revised Final Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and written approval of the Executive Director, two sets of final revised project plans that have been reviewed and approved by the City of Hermosa Beach. The final revised plans shall conform with the preliminary plans submitted to the Commission and prepared by Michael Lee Architects, Inc dated 9/8/2020, except that it shall be modified as required below.

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

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

**2. Retention of a Single-Family Residence and Junior Accessory Dwelling Unit On-Site.** The development approved by Coastal Development Permit No. 5-20-0530 is for construction of a single-family residence with a 460 square foot junior accessory dwelling unit (JADU). The applicants and all assigns/successors shall maintain the JADU as a separate residential unit. At no point may the JADU be incorporated into the single-family residence or converted to a non-residential use.

**3. Water Quality, Drainage and Landscaping Plans.**

**A.** The applicants shall undertake development in accordance with the drainage and run-off control plan received by Commission staff on October 5, 2020 showing that roof and surface runoff will be captured with a trench drain and an on-site drainage system that connects to the municipal storm drain system. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. The applicants shall incorporate Best Management Practices (BMPs) into the construction and post-construction 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.

**4. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

- A.** No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B.** No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C.** Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D.** Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E.** All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F.** The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- 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.

**5. Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have 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.

## **FINDINGS AND DECLARATIONS**

### **A. Project Description and Background**

The applicants are proposing to demolish a 2,816 sq. ft. duplex, and to construct a 3,755 sq. ft., three-level single-family residence with a 310 sq. ft. roof deck and an attached two-car garage ([Exhibit 2](#)). The residence includes an attached 460 sq. ft. junior accessory dwelling unit (JADU) with a separate entry, bedroom, kitchen, bathroom, and a 122 sq. ft. private outdoor patio. Non-invasive, drought tolerant landscaping is proposed for the project. One hundred and five cu. yds. of grading is proposed to be exported outside the coastal zone.

The subject site is a 2,850 sq. ft. rectangular-shaped lot, approximately 360 ft. inland of the public beach in a built out residential neighborhood in Hermosa Beach. The majority of the project site's surrounding parcels accommodate 2 to 3-story single family and multi-family homes ([Exhibit 1](#)). The project site is designated in the certified LUP as a

Medium-Density Residential lot, which corresponds to the R-2B zone in the City's uncertified zoning code. Pursuant to the LUP, the R-2B zone allows single family dwellings, duplexes, and condominiums, and requires a minimum lot area of 1,200 sq. ft. for every dwelling unit. The proposed development (a single-family residence with an attached ADU) is a permitted use within the R-2B zone.

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

## **B. Development**

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

“(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.”

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

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

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

“New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled”

LUP Section IV.B states:

Goals and Objectives

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

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

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

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

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

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

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

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

There is an apparent trend of development in Hermosa Beach of converting multi-family residential developments into single-family homes. The Commission approved at least 40 projects within the last five years that converted multi-family units to single-family residences (a total loss of 45 residential units) ([Exhibit 3](#)). The Commission's approval of projects that would reduce housing density typically relied on Chapter 3 policies or

certified LUP policies relating to the project sites; however, many decisions did not look at the cumulative impacts of loss of housing density in coastal areas or the importance of concentrating development in areas capable of supporting it for purposes of protecting coastal resources on a broader scale. In response to California’s persisting housing crisis, however, the Commission has become increasingly concerned about the cumulative impacts of development trends that reduce housing density and increase development pressure in other, potentially sensitive or hazardous areas in the coastal zone.<sup>1</sup>

**The Certified LUP’s Density Limits**

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

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

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

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

The current development of the site is consistent with the Medium-Density LUP designation in that two residential units are currently available on site. The certified LUP defines medium-density development as consisting mostly of two-family homes and

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<sup>1</sup> Refer to the staff report for CDP Application No. 5-18-0380 (S.M. Star, LLC)

single-family homes. The existing duplex is consistent with the certified LUP's minimum lot area per dwelling unit development standards (found in Appendix G of the certified LUP): in the R-2B zone, the project site can accommodate two on-site residential units, because it exceeds the minimum lot size of 2,400 sq. ft. Appendix G also states that "for lots less than 30 ft. wide, only a single-family residence" is permitted. The subject lot has a lot width measured by the applicant as 29.97 ft. which is .03 feet (or about 1/3 of an inch) less than the 30 ft. standard. Nevertheless, although technically just barely shy of 30 feet, the lot width meets the intent of the LUP minimum lot width standard for two units. Therefore, the existing duplex is a conforming structure under the certified LUP.

### **Application to this Project**

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

Maintaining the existing housing density or even increasing the housing density in areas with a public multi-modal transit system will help to reduce greenhouse gases that contribute to climate change and sea level rise. The project site is located in a dense, residentially-zoned area where numerous residential opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within ½ a mile of the subject property, and can easily be accessed by walking, taking local buses, or by bicycle. In terms of regional public transit, the project site is located approximately 0.1 mile. (an approximately three minute walk) from a bus stop on the intersection of Hermosa Avenue and 19th Street. This bus stop is served by the Beach Cities Transit 109 line, which connects the three "Beach Cities (Redondo Beach, Hermosa Beach, and Manhattan Beach)" to El Segundo and LAX, and Commuter Express 438 line, which connects the South Bay Area to Downtown Los Angeles. Thus, the project site is located in an already densely developed area that contains a multi-modal transit system that connects to the greater Los Angeles region. The project site is well-served by public transportation and other amenities and is not located in an area that is subject to coastal hazards.

Although this project would result in a loss of one residential unit, mitigated to some extent by a proposed JADU, discussed more fully below, the cumulative effect of the

loss of residential housing in areas able to accommodate such density could unwittingly lead to increased pressure to develop housing in other areas that do not have adequate public transit and/or public services in the long run, thereby increasing reliance on automobiles (and, potentially, production of greenhouse gases), and in areas that are not appropriate for concentrated development, such as areas vulnerable to coastal hazards and sea level rise. As the recent changes to State housing laws demonstrate, given the existing housing shortages throughout the state, there is tremendous economic and political pressure to develop more housing opportunities; therefore, in the coastal zone, it is important to maintain density in already developed and appropriate areas to ensure protection of coastal resources.

Thus, the LUP policies to protect existing housing stock in Hermosa Beach support and are consistent with the Coastal Act policies encouraging concentrating development in areas that can accommodate more dense development. Although the project site is located in an area that would be appropriate for maintaining housing density and does raise concerns regarding the cumulative loss of housing density in Hermosa Beach, this case is complicated by the provisions of the City's uncertified Zoning Code that prohibit the development of a multi-family residence in this 2,850 sq. ft. lot, as it requires 1,750 sq. ft. of lot area per dwelling unit in R-2B zone. While the uncertified zoning code is not the standard of review, if the Commission were to approve a residential development on this parcel that was denser than that allowed by the City's zoning code, the applicants could have difficulty constructing the development due to the conflict with the zoning code. The Commission must implement the Coastal Act, despite any inconsistencies with the uncertified zoning code, but there is a compromise approach available here that would allow the development to go forward in this case. Thus, the Commission can approve the project with a JADU as a compromise to mitigate the cumulative loss of housing density in Hermosa Beach.

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

The existing duplex is a conforming structure under the certified LUP that has provided two units since 1965; therefore, the re-development of a single-family residence would result in the loss of one existing residential unit. In previous projects, the Commission has encouraged the development of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) as a means to mitigate for lost residential units. In the medium-density residential, or R-2B zone, the development of an ADU/JADU in conjunction with a single-family residence on the project site would be consistent with the certified LUP.<sup>2</sup> In addition, an ADU/JADU on the project site appears consistent with recent updates to statewide ADU laws that took effect January 1, 2020, as well as

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<sup>2</sup> The certified LUP does not preclude ADUs/JADUs from being constructed in conjunction with a new or existing single-family residence.

the City's uncertified ADU ordinance adopted on January 14, 2020 (Urgency Ordinance No.20-1403-U).<sup>3</sup>

On January 1, 2020, new housing laws went into effect that seek to address the statewide housing crisis by encouraging the maintenance of existing multifamily residential density (SB330) and provision of additional accessory dwelling units (Government Code §§ 65852.2, 65852.22). The Housing Crisis Act, in particular, prohibits local governments from approving residential projects that would demolish more "dwelling units" than are created by the project (no net loss). The Housing Crisis Act does not apply to the Commission or modify the Coastal Act. Nevertheless, it appears that the City has taken the position that an ADU satisfies the no net loss requirement of the Housing Crisis Act. The subject project was submitted to the City after January 1, 2020.

From a Coastal Act perspective, ADUs raises concerns as to whether density will, in fact, be maintained in a manner consistent with Coastal Act development policies. Although ADUs are typically designed to function separately from the associated single-family residence, the ADU is dependent on the single-family residence to serve as a housing unit. ADUs share utility lines (power, water) with the associated single-family residence and cannot be sold separately from the primary residence. This differs from a duplex, where the units can have separate utility connections and could be sold independently from one another, if converted to a condominium. In addition, it is more difficult to enforce the continuous provision of an ADU as compared to a duplex. The Commission, for instance, does not have the authority to require that an ADU/JADU be rented out for the life of the structure. In addition, due to their size, ADUs are more easily left vacant or used by the residents of the primary single-family residence, rather than rented out.

In this case, the applicants have proposed to construct an attached 460 square foot JADU located on the lowest level of the residence that features a separate exterior entry (pursuant to the State's ADU requirements), its own kitchen and dining area, bathroom, and bedroom ([Exhibit 2](#)). The bedroom and bathroom will have windows. The JADU design resembles a full residential unit and can be a reasonable residence for an individual or a couple. However, although the proposed JADU would have a separate exterior entrance (pursuant to the state's ADU requirements), the applicants propose an interior ingress and egress (door) between the JADU and the primary residence. Enabling access through an interior door between the primary residence and the JADU increases the likelihood that the JADU will not be rented out and instead would be used

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<sup>3</sup> In previous applications in Hermosa Beach, the City of Hermosa Beach's former uncertified ADU ordinance restricted ADUs/JADUs to lots that were larger than 4,000 sq. feet and zoned single-family residential. Under the City's former ADU ordinance, the applicants for this project would not have been permitted to develop an ADU. However, as of January 1, 2020, the City's former ADU ordinance, which was not consistent with the new ADU law because it included a minimum lot size requirement, was deemed "null and void" under the new state ADU law (Government Code § 65852.2(a)(4)). And, on January 14, 2020, the City adopted a new ADU ordinance consistent with the state ADU.

by the residents of the primary residence, a risk that is more pronounced than if the applicants had proposed a detached ADU. To address this concern, staff recommends **Special Condition 1**, requiring the applicants to submit revised final plans without the interior ingress and egress between the JADU and the primary residence of the interior door, providing access to the JADU only through an external ingress and egress. Additionally, the Commission imposes **Special Condition 2** which requires the applicants to retain the single-family home and the attached JADU. 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 5** requiring that the property owners record a deed restriction against the property, referencing all of the Special Conditions of this permit.

As explained above, the Coastal Act encourages the concentration of development in already developed areas that can accommodate it (PRC 30250) and the minimization of vehicle miles traveled (PRC 30253(e)). The certified LUP (which is not the standard of review, but provides guidance) does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. The project will contribute to the cumulative loss of housing density in Hermosa. However, in this case, the construction of a single-family residence with a JADU, is a compromise approach to minimize cumulative loss of housing density while remaining consistent with the certified LUP and the Coastal Act, and allow development that is also consistent with the local zoning code.

### **Community Character**

In order to better understand the character of the neighborhood, Commission staff conducted a survey of residential properties surrounding the project site to identify single-family and multi-family residences. The survey area encompassed the lots bounded by 19<sup>th</sup> Court to the north, 17<sup>th</sup> Street to the south, Beach Drive to the west, and Hermosa Avenue to the east. Of the total of 35 lots that were included in the survey area, 13 lots featured single family residences and 22 lots featured multi family residences. The residential structures ranged from 1,104 sq. ft. to 5,817 sq. ft. in size, with the average structure totaling approximately 3,747 sq. ft.

The results of the community character analysis indicate that the surrounding lots are currently developed with about 60% multi-family residences (consisting of between 2-8 units) and about 40% single-family residences. Given the fairly even split of single-family residences to multi-family residences in this area, a new single-family residence would not have an adverse impact on the community character of the area. The proposed residence of 3,755 sq. ft. is about the same size as the average residential structure. Maintaining two units on site is consistent with the certified LUP goal to protect the current diversified mix of housing. As a single-family home with an JADU on a 2,850 sq. ft. lot, the proposed development is consistent with the certified LUP, which allows for a maximum of two units on the site.

As mentioned above, the project will contribute to the cumulative loss of housing density in Hermosa Beach. However, in this case, the construction of a single-family residence

with a JADU, is a compromise approach to minimize cumulative loss of housing density while remaining consistent with the certified LUP and the Coastal Act, and still allow the applicants to develop on the site under the City's Zoning Code.

As proposed by the applicants 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 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 subject site is located approximately 360 ft. inland of the public beach, in a built-out residential neighborhood in Hermosa Beach ([Exhibit 1](#)). The project includes a two-car garage consistent with the City's parking requirement, plus one guest parking space in the driveway. The parking spaces would be accessed from 18<sup>th</sup> Court, and the project does not propose any curb cuts, so the project would not adversely impact on-street parking spaces. The proposed project also adheres to the height and setback requirements set forth in the certified LUP.

Therefore, as proposed, the development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms to Sections 30210, 30211, and 30212 of the Coastal Act, and will not prejudice the City's ability to prepare a local coastal program.

### **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 4**, 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 applicants 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 deal with these post construction water quality impacts, the applicants have submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. The Commission imposes **Special Condition 3**, which ensures that the project conforms to the drainage and run-off control plan received on October 5, 2020. The plan includes a drainage system to manage and increase on-site percolation of runoff, including gutters, downspouts, trench drain, catch basins, and sump pump basins, which are directed to the public right-of way and storm drain.

The applicants have submitted a landscaping plan that consists of non-invasive, drought tolerant vegetation. 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 3**, 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. Deed Restriction**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 5**, which requires that the property owners record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

## **F. Local Coastal Program**

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The LUP for Hermosa Beach was effectively certified on

April 21, 1982; however, because Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

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

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

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

In this case, the City of Hermosa Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Hermosa Beach determined that the proposed development is exempt under Section 15303(a), which exempts construction of a single-family residence in a residential zone from CEQA requirements. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment, either individually or cumulatively with other past, present, or reasonably foreseeable probable future projects. 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**

- Coastal Development Permit Application No. 5-20-0530 and associated file documents.
- City of Hermosa Beach Certified Land Use Plan, Certified by the Commission on April 21, 1982.