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# F16b

Filed: 04/06/2020  
49<sup>th</sup> Day: 06/12/2020  
Staff: M. Revell-LB  
Staff Report: 05/21/2020  
Hearing Date: 06/12/2020

## STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

**Appeal No.:** A-5-MNB-20-0020

**Applicant:** Coral Courts, LLC

**Agents:** Stacy Straus

**Local Government:** City of Manhattan Beach

**Local Decision:** Approval with Conditions

**Appellants:** Commissioners Linda Escalante and Mike Wilson

**Project Location:** 1313 and 1316 The Strand, Manhattan Beach, Los Angeles County (APN(s) 4179-026-007 & 4179 026-008)

**Project Description:** Appeal of City of Manhattan Beach Local Coastal Development Permit No. CA 19-21 for demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots, resulting in the loss of three residential units, and construction of a 9,920 sq. ft. two-story over basement, single-family residence with an attached 845 sq. ft. three-car garage on a combined 6,287 sq. ft. lot.

**Staff Recommendation:** Determine that a substantial issue exists

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

**IMPORTANT HEARING PROCEDURE NOTE:** The 49th working day from the date the appeal was filed is June 12, 2020. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time-frame for action on appeals for 60 days. Accordingly, the Commission must hold a hearing on this appeal on or before August 12, 2020. See Order N-52-20: <https://www.gov.ca.gov/wp-content/uploads/2020/04/4.16.20-EO-N-52-20-text.pdf>

The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

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#### SUMMARY OF STAFF RECOMMENDATION

The City’s action on Local Coastal Development Permit No. CA 19-21 authorized demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots and construction of a 9,920 sq. ft. three-story single-family residence (two stories over basement), with an attached 845 sq. ft. three-car garage, resulting in a net loss of three residential units. Although the lot consolidation is not included in the project description, the combined total lot size would be 6,287 sq. ft. (2,987 (1313) + 3,300 (1316)). The subject site is an ocean fronting lot and is located along The Strand.

The appeal contends that the local coastal development permit is inconsistent with the intent of the high-density residential land use designation of the certified LCP, and the approved single-family residence is inconsistent with the character of the surrounding residential development. On the subject site, the Implementation plan allows a minimum of one unit per lot, without the merger in place, the proposed development results in less than one unit per lot. More importantly, the land use on the subject site is “RH - High Density Residential.” The intent of the RH land use designation is to promote density through the construction of multi-family structures. RH properties are permitted by right to 1-5 units and can construct 6+ units with a Precise Development Plan or Site Development Permit. The Minimum Lot Area Per Dwelling Unit on RH sites is 850 sq. ft. The combined total lot size of the 2 parcels is 6,287 (2,987 (1313) +3,300 (1316)). While it is likely that other zoning standards would reduce the potential maximum number of units that could be

constructed on the two sites, based only on the size of the two lots and the minimum lot size per dwelling unit, 7.4 units could be constructed (6,287/850).

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which appeal number A-5-MNB-20-0020 has been filed for the following reasons: 1) the Local CDP did not include approval of the lot merger, which results in development of less than one structure per lot if approved, which is inconsistent with the intent of the high-density residential land use designation of the certified LCP; and 2) The approved single-family residence is out of character with the general pattern of surrounding residential development with regard to density, building scale, and lot size.

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**EXHIBITS**

- Exhibit 1 – Project Location
- Exhibit 2 – Project Plans
- Exhibit 3 – Appeal
- Exhibit 4 – Local CDP No. CA 19-21
- Exhibit 5 – City of Manhattan Beach Urgency Ordinance 19-0020-U, dated December 17, 2019.

## I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

**Motion:** I move that the Commission determine that Appeal No. A-5-MNB-20-0020 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**Resolution:** The Commission hereby finds that Appeal No. **A-5-MNB-20-0020** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.

## II. APPELLANTS' CONTENTIONS

The Commission received a Notice of Final Local Action (NOFA) for City of Manhattan Beach Local CDP No. CA 19-21 on March 23, 2020. Local CDP No. CA 19-21 approves the demolition of existing structures on two separate lots owned by the same applicant, and construction of a new single-family residence ([Exhibit 4](#)).

On April 6, 2020, an appeal was filed by Commissioners Escalante and Wilson ([Exhibit 3](#)). The appellants contend that the City's approval does not comply with the City's certified LCP. More specifically, the appellants raise the following concerns with the City-approved development:

- 1) The Local CDP did not include approval of the lot merger, which results in development of less than one structure per lot if approved, which is inconsistent with the intent of the high-density residential land use designation of the certified LCP;
- 2) The approved single-family residence is out of character with the general pattern of surrounding residential development with regard to density, building scale, and lot size.

## III. LOCAL GOVERNMENT ACTION

On January 7, 2020, the City of Manhattan Beach approved the coastal development permit application for the demolition of a single-family residence and a legal nonconforming triplex and construction of a new, three-story, single family residence with attached three-car garage. ([Exhibit 2](#)).

The City determined that the project was categorically exempt from the California Environmental Quality Act (CEQA) under Section 15303 'New Construction or Conversion of Small Structures', as the proposed construction consists of one single-family residence."

On March 23, 2020, the Coastal Commission's South Coast District Office received a valid Notice of Final Action (NOFA) for Local CDP No. CA 19-21. The Commission issued a Notification of Appeal Period on March 25, 2020. On April 6, 2020, Commissioners Escalante and Wilson filed the appeal during the ten (10) working day appeal period ([Exhibit 3](#)). No other appeals were received. The City and applicant were notified of the appeal by Commission staff in a letter also dated April 6, 2020.

#### **IV. APPEAL PROCEDURES**

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development approved by cities or counties may be appealed if it is located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:
  - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
  - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea and within 300 feet of the inland extent of any beach. The project site would also qualify as an appealable area based on Section 30603(a)(2) because of its location on the bluff. The issues raised in the subject appeal, on which the Commission finds there is a substantial issue as described further below, apply to proposed development located in the appeals area.

#### **Grounds for Appeal**

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1):

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

Section 30625(b)(2) of the Coastal Act requires a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a). If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the Commission will proceed to the de novo portion of the public hearing on the merits of the project. A de novo review of the merits of the project uses the certified LCP as the standard of review. (Section 30604(b).) In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act. (Section 30604(c).) Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

#### **Qualifications to Testify before the Commission**

If the Commission, by a vote of 3 or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will immediately follow, during which the Commission will take public testimony.

## **V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE**

### **A. Project Description and Location**

The City of Manhattan Beach approved the demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. legal nonconforming triplex on two adjacent lots owned by the same applicant, and construction of a 9,920 sq. ft., 30-foot high, two-story over basement, single family residence with an attached 845 sq. ft. three-car garage ([Exhibit 2](#)). The current configuration of the existing residential units on the lots consist of a three-unit triplex at 1312 The Strand, which is comprised of (2) two bed, 2 bath units (upper and lower along on the Strand) and (1) one bed, one bath unit over the garage

fronting the alley with six on-site parking spaces, and a 1,568 sq. ft single-family residence at 1316 The Strand with two onsite parking spaces. In total, the existing lots currently provide 4 residential units, and the proposed project results in the construction of one single-family residence, which results in the net loss of three residential units. The triplex at 1312 The Strand is a legal non-conforming structure because it does not meet current development standards for open space requirements.

The project site is located in an urbanized neighborhood within Area District III (Beach Area) and is zoned Residential High-Density (RH) under the Certified LCP. The project is situated on two adjacent rectangular shaped, ocean-fronting lots located at 1312 and 1316 The Strand, that are 2,987 sq. ft. and 3,300 sq. ft., respectively ([Exhibit 1](#)). The site is located along the Strand, which is a paved public walkway between the ocean-fronting residences and the sandy beach and is between the first public road parallel to the sea (Ocean Drive) and the sea. It is in an area where development approved by the City of Manhattan Beach pursuant to its certified LCP is appealable to the Coastal Commission. Public access to the beach is available via a public access stairway located at the terminus of 14<sup>th</sup> Street approximately 120 feet upcoast of the project site.

### **B. Local Coastal Program Certification**

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

### **C. Factors to be Considered in Substantial Issue Analysis**

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the certified LCP;
2. The extent and scope of the development as approved or denied by the local

government;

3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

#### **D. Substantial Issue Analysis**

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project's conformity with the policies of the LCP. The appellants raise several substantial issues discussed in detail below. Therefore, Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

**Contention: The Local CDP did not include approval of the lot merger, which results in development of less than one structure per lot, which is inconsistent with the high-density residential land use designation in the LCP.**

The appellants assert that the City's failure to include the lot consolidation as part of the project description is inconsistent with the LCP because without the merger in place, the proposed development results in less than one unit per lot, which is inconsistent with the RH High-Density Residential zoning designation where this project is located. Furthermore, the lot consolidation is considered development under the LCP, which requires a CDP and should have been included in the project description and analyzed as part of the local CDP.

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

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

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

**Plan.**

**Section A.12.020 of Chapter 2 of the Certified Implementation Plan (IP)**

provides that single-family residences are permitted by right on RH properties and that multi-family residential development on RH properties are permitted by right to 5 or fewer units, and 6 or more units can be constructed with a Precise Development Plan or Site Specific Development Plan.

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

The state is currently experiencing a housing supply shortage of approximately 90,000 units on a yearly basis<sup>1</sup>. Within the appeal jurisdiction of the City of Manhattan Beach, there appears to be a trend in CDP applications for conversion of multi-family structures to single-family residences. Housing shortages throughout the state have been met with growing efforts to address and improve availability. For example, although not a basis for the appeal, on January 1, 2020, the Housing Crisis Act of 2019 (Senate Bill 330 (Skinner)) took effect with the goal of increasing housing stock. The Housing Crisis Act prohibits a city or county from approving a housing development that will require the demolition of occupied or vacant residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished (no net loss). However, the applicant contends that the subject application is not subject to the requirements of SB 330 because it was filed with the City on October 21, 2019, before January 1, 2020. Furthermore, the Housing Crisis Act does not amend the Coastal Act and is not the standard of review for the subject project.

On December 17, 2019, the City of Manhattan Beach enacted Urgency Ordinance No. 19-0020-U. The intent of the ordinance was to amend the City's Local Coastal Program Section A.12.020 to prohibit the approval of residential development projects, submitted after January 1, 2020, that would result in a net loss of legal residential dwelling units ([Exhibit 5](#)). The Urgency Ordinance also includes provisions to allow the construction of junior accessory dwelling units (JADU). However, the City has not submitted the ordinance to the Commission for review and approval. Thus, the LCP has not been amended to reflect the provisions of the ordinance. Although the City's LCP currently lacks robust policies that would explicitly prohibit the loss of residential units, it does contain zoning and land use designations designed to promote and maintain density and community character.

The subject lots are located within Area District III (Beach Area), and are zoned Residential High Density, or RH. The Local Coastal Program designation for the property is High Density Residential. The intent of the RH land use designation is to promote density through the construction of multi-family structures. According to Section A.12.020 of the certified IP, RH districts are permitted by right to construct one to five units, and can

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

construct six or more units with a Precise Development Plan or Site Development Permit. Although the existing triplex at 1312 The Strand is a legally nonconforming triplex that does not comply with the certified LCP with regard to with open space requirements on site, the fact remains that three units have been maintained onsite since the triplex was constructed. The demolition of a triplex and a single-family residence and construction of one single-family residence over two lots would be a significant change in housing density eliminating three residential units. As a result, the project raises significant questions as to the project's consistency with the LCP, which allows for and promotes density in this area through construction of multi-family structures.

Furthermore, pursuant to the Property Development Standards addressed in Section A.12.030 for Area District III, the Minimum Lot Area Per Dwelling Unit on RH sites is 850 sq. ft. The resulting combined total lot size of the two parcels is 6,287 (2,987 (1312) + 3,300 (1316)). While other zoning standards (including setbacks, parking requirements, and open space requirements) would likely reduce the potential maximum number of units that could be constructed on the two sites, based only on the size of the two lots and the required minimum lot size per dwelling unit, 7 units could potentially be constructed.

Finally, the appellants contend that the lot consolidation is considered development under the LCP, which requires a CDP and should have been included in the project description and analyzed as part of the local CDP.

**Section A.96 of the Certified IP** specifies coastal development permit procedures, and Section A.96.030 broadly defines development, which states in relevant part:

“Development” means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any materials; grading, removing, dredging, mining, or extraction of any materials; **change in the density or intensity of use of land**, including, but not limited to, subdivision pursuant to the Subdivision Map Act...”**(emphasis added)**

The City's staff has indicated that the applicant has applied for a lot merger that has not yet been approved due to some technical issues with submitted paperwork, and that the City would require the lot merger be approved before any building permits are issued. However, the application materials submitted with the City's record in response to this appeal do not include a request for a lot merger, and the lot consolidation is not considered in the CDP or requested as a condition of the CDP. The City has the authority and responsibility to impose conditions as necessary to ensure consistency with the certified LCP, but it did not fully do so in this case.

Therefore, the Commission finds that the project, as approved by the City, may not conform to the LCP or the public access policies of the Coastal Act, and thus, this aspect of the appeal does raise a substantial issue regarding conformity of the development with those standards.

**Contention: The approved single-family residence is out of character with the general pattern of surrounding residential development with regard to density, building scale and lot size.**

The appellants assert that the approved single-family residence is significantly larger than the surrounding residential development and is also out of character with the general pattern of multi-family building in the immediate vicinity, which is inconsistent with the LCP. Additionally, if the lot merger were to occur, it would result in a residential lot that is also significantly larger than the majority of lots in the vicinity.

Chapter II of the IP includes the following policies:

**A.01.030. Purposes**

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

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

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

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

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

procedure to balance the retention of smaller older homes while still allowing for flexibility for building upgrades below the minimum allowable square footage.

The locally approved project consists of the demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. legal nonconforming triplex on two adjacent lots owned by the same applicant, and construction of a 9,920 sq. ft., 30-foot high, two-story over basement, single family residence with an attached 845 sq. ft. three-car garage. Of the 17 ocean-fronting parcels on the block to the north, on the subject block, and on the block to the south (The Strand between 15<sup>th</sup> and 12<sup>th</sup> Streets) there are 11 multi-family structures ranging from two to four units and only six single family residences. So comparatively, the majority of the surrounding structures in the immediate vicinity are multi-family structures, and single-family residences are less prevalent.

Moreover, the proposed merger of the two separate lots would result in a combined total lot size of 6,287 sq. ft. (2,987 sq. ft. (1312) + 3,300 sq. ft. (1316)), which is larger than 16 of the 17 parcels on this block. Thus, the lot size is also out of character with the general pattern of development in this location.

Therefore, the size of the proposed structure, the use of the two sites for one single family residence, and the resulting large lot size would be inconsistent with the community character as it would facilitate a larger, less dense development pattern and would constitute a negative precedent that would result in potential significant cumulative impacts if other similar projects were approved.

Finally, although Local CDP No. CA-19-21 states on page two of the permit that “written findings are required for all decisions on Coastal Development Permits” and that “such findings must demonstrate that the project, as described in the application and accompanying material or as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program”, the City made the determination that the project conformed with the above policies of the certified LCP, but provided no rationale for these conclusions ([Exhibit 4](#)). The City has the authority and responsibility to impose conditions as necessary to ensure consistency with the certified LCP, but it did not fully do so in this case.

Therefore the Commission finds that the project as approved by the City may not conform to the LCP or the public access policies of the Coastal Act, and thus, this aspect of the appeal does raise a substantial issue regarding conformity of the development with those standards.

**SUBSTANTIAL ISSUE FACTORS:**

Under section 13115(c) of the Commission’s regulations, the Commission considers five factors in determining whether an appeal raises a substantial issue pursuant to Section 30625(b)(2):

- 1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP.**

The City's findings state that the project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. B. 1, 2, and 3, which requires planning of coastal residential development to maintain building scale and bulk control, but do not include discussions of how the project preserves and protects residential density in a high-density residential zone, and community character. The City did not substantially support its approval of the project as being consistent with all of the applicable policies of the certified LCP, in fact, the City's findings are primarily conclusions and do not explain the City's decision. In addition, the City did not require the lot consolidation to be included in the CDP as development, nor did it condition the project to require the lot merger. Therefore, there is a low degree of factual and legal support for the local government's decision that the project, as conditioned, is consistent with the LCP, and this factor supports a substantial issue finding.

**2. The extent and scope of the development as approved or denied by the local government.**

As addressed above, the mass and scale of the City-approved single-family structure on potentially one consolidated lot that is larger than the vast majority of lots in the area, is out of character and inconsistent with the surrounding development. More importantly, the loss of residential density can have far-reaching impacts if not properly mitigated and, therefore, when considered cumulatively throughout the region, the scope of the project raises a substantial issue.

**3. The significance of the coastal resources affected by the decision.** The subject site is two oceanfront lots designated as residential high density. The cumulative impacts of the City-approved development that results in the loss of housing stock, in addition to the potential loss of a residential parcel intended for multi-family use could have significant impacts on housing in the coastal zone, which in turn, could encourage development in other less developed parts of the coastal zone that are not appropriate for it, or in hazardous areas, which could have significant impacts on coastal resources. This factor supports a finding of substantial issue.

**4. The precedential value of the local government's decision for future interpretations of its LCP.** As discussed above, the land use on the subject site is RH, which is High Density Residential. The intent of the RH land use designation is to promote density through the construction of multi-family structures. Allowing the use of two lots for one single-family residence, and the large resulting lot size would facilitate a larger, less dense development pattern and would constitute a negative precedent that would result in potential significant cumulative impact if other similar projects were approved. This factor supports a finding of substantial issue.

**5. Whether the appeal raises local issues, or those of regional or statewide significance.**

As addressed in the staff note on page two of this staff report, the State Legislature has acknowledged that California is facing a severe housing crisis, and that current and future demands are exceeding the availability of housing units. Therefore, the City's approval of the demolition of a triplex and a single-family residence on two lots to construct one single

family residence raises issues of regional and statewide significance.

**Conclusion**

In conclusion, staff recommends that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the policies of the City's certified LCP and the public access policies of the Coastal Act.