

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 07/10/20

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-20-0223

Applicant: Clifford Wang

Agent: Srour and Associates

Location: 1820 Manhattan Avenue, Hermosa Beach, Los Angeles County (APN: 4183-015-008)

Project Description: Demolish an existing two-story, 20-foot high, 1,100 square-foot duplex and a detached garage. Construct a new two-story (over a partial basement), 30-foot high, 3,550 square-foot single-family residence with a 500 square-foot roof deck, attached junior accessory dwelling unit (JADU), attached two-car garage, and one guest parking space in the driveway.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a 1,100 square-foot duplex and a detached garage, and to construct a 3,550 sq. ft., two-level single-family residence with a 500 sq. ft. roof deck, a partially below-grade basement and an attached 467 sq. ft. two-car garage ([Exhibit 2](#)). The residence includes an attached 220 sq. ft. Junior Accessory Dwelling Unit (JADU) with a separate kitchen and bathroom. 455 cu. yds. of grading is proposed to be exported outside the coastal 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.

As proposed, the project would eliminate one residential unit. The Coastal Act policies direct the Commission to encourage affordable housing (PRC 30604), and to concentrate new development in already developed areas that are able to accommodate it and which minimize vehicle miles traveled (PRC 30250 and 30253(e)). In previous projects, the Commission has required the development of an additional residential unit, or accessory dwelling unit (ADU)/junior accessory dwelling unit (JADU) as a means to mitigate for a lost residential unit. The certified LUP does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. In previous applications, applicants did not have the opportunity to mitigate the loss of residential units with ADUs because the City's ADU ordinance restricted the ability to develop ADUs/JADUs to lots that were larger than 4,000 square feet and zoned single-family residential. However, as of January 1, 2020, the City's ADU ordinance is not consistent with the state's new ADU law, which does not allow local governments to impose minimum lot size requirements on the construction of ADUs; as a result, the City amended its ADU ordinance in January 2020 to be consistent with the updated ADU law. In addition, the new ADU law requires ministerial approval of applications for ADUs and JADUs that meet certain minimum requirements regardless of whether a local government has adopted an ADU ordinance. Therefore, local zoning does not appear to prevent the applicant from constructing an ADU.

The applicant has proposed to incorporate an attached 220 sq. ft. JADU, which has been reviewed and approved by the City. Although the JADU has been designed to function separately from the single-family residence, the JADU is dependent on the single-family residence to serve as a housing unit. The JADU shares utility lines (power, water) with the single-family residence. The JADU also cannot be sold separately from the single-family residence. This differs from a duplex, where the units can have separate utility connections and can be rented or sold independently from one another. While it is true that JADUs are not independent housing units, JADUs do provide additional housing units in areas that are impacted by the housing shortage. JADUs are typically more affordable to rent because of their smaller size. With a living area less than 500 square feet, JADUs may not necessarily attract families, but are ideal for individuals or couples who may not otherwise be able to afford to rent out larger units. Overall, JADUs do accommodate individuals other than the residents of the single-family residence and should therefore be considered to be additional living units.

In order to ensure that two housing units are maintained onsite, the Commission imposes **Special Conditions 1 and 4**, which require the applicant to maintain the proposed JADU as a separate unit and to not incorporate it into the rest of the single family residence and to record a deed restriction against the property that provides future owners with notice of all of the conditions of this permit, including the requirement to maintain the JADU as a separate unit.

More broadly, planning for concentration of development and encouragement of affordable housing can be done through a City's Local Coastal Program, but is more

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difficult to do in a meaningful way on a project-by-project basis. Here, Hermosa Beach does not currently have a certified LCP. Until an LCP has been approved for Hermosa Beach, the Commission shall continue to evaluate projects involving a loss of existing housing density on a case-by-case basis. In this case, the project, as proposed and as conditioned by the Commission, will maintain two units onsite and will furthermore provide an affordable housing opportunity for a student, individual, or couple who may not otherwise be able to afford to rent out a larger duplex unit.

Commission staff therefore recommends that the Commission **APPROVE** coastal development permit application 5-20-0223, as conditioned. The motion is on page 5.

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EXHIBITS

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

[Exhibit 2 – Project Plans](#)

MOTION AND RESOLUTION

Motion:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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 applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

SPECIAL CONDITIONS

1. **Retention of Two Onsite Units.** The development approved by Coastal Development Permit No. 5-20-0223 is for construction of a single-family residence with a junior accessory dwelling unit (JADU). The applicant 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.
2. **Water Quality, Drainage and Landscaping Plans.**
 - A. The applicant shall undertake development in accordance with the drainage and run-off control plan received by Commission staff on April 20, 2019 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 applicant 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.
3. **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.
- 4. 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.

FINDINGS AND DECLARATIONS

A. Project Description and Location

The applicant is proposing to demolish a 1,100 sq. ft. duplex and a detached garage, and to construct a 3,550 sq. ft., two-level single-family residence with a 500 sq. ft. roof deck, a partially below-grade basement and an attached 467 sq. ft. two-car garage ([Exhibit 2](#)). The residence includes an attached 220 sq. ft. junior accessory dwelling unit (JADU) with a separate kitchen and bathroom. 455 cu. yds. of grading is proposed to be exported outside the coastal zone.

The subject site is a 2,333 sq. ft. lot sloping downward toward the coast, approximately 900 feet inland of the public beach in a built out residential neighborhood in Hermosa Beach ([Exhibit 1](#)). The lot is currently developed with a two-story, 1,100 sq. ft. duplex and a detached garage that were constructed in 1921, prior to passage of the Coastal Act.

The majority of the project site's surrounding parcels accommodate 3-story, 30 ft.-high single family and multi-family homes ([Exhibit 1](#)). The proposed 30-ft. high, 3,550 sq. ft. single-family residence is of similar mass, scale, and density as other properties in the project vicinity. The development is located within an existing developed area and will be compatible with the character and scale of the surrounding area.

The project site is in a non-hazardous, built out residential area, and is adequate to maintain housing density. The proposed project features a reduction in density of one unit (duplex to single family residence). In order to mitigate for the density reduction, the applicant proposes a 220 sq. ft. attached JADU with a separate entry and independent kitchenette and bathroom. **Special Condition 1** imposes the retention of the JADU as a separate residence for the life of the development.

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 Manhattan Avenue, 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. Furthermore, there are no public coastal views in the area. Therefore, the project will have no adverse impact on public access or public coastal views.

During construction and post construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, the Commission imposes two special conditions to address and minimize impacts to water quality and marine resources: **Special Condition 2** ensures that the project conforms to the drainage and run-off control plan received on April 20, 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; **Special Condition 3** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Although the City of Hermosa Beach does not have a certified LCP, it does have an LUP that was certified by the Commission in 1982 and provides guidance as to whether the proposed project complies with Chapter 3 of the Coastal Act. The LUP designates the project site as medium density residential (14-25 DU/AC), which corresponds to R-2 zone in the City's uncertified zoning code. The R-2 zone allows for single-family residences, multiple-family dwelling units (attached or detached), and condominium developments consistent with the City's condominium ordinance. 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-2 lot. The project site has a lot size of 2,333 square feet, which allows only one unit to be developed on the lot under the LUP's Residential Zone Requirements. In addition, the current Hermosa Beach Zoning Code (which has not been certified by the Commission) requires a minimum of 1,750 square feet per unit on R-2 zoned lots, which would also allow one residential unit to be developed on the project site. The current zoning code has not been certified by the Commission, therefore, the certified LUP should be considered when determining whether an existing development conforms to the specified development standards. Under the certified LUP, the existing duplex is a non-conforming structure.

Although the existing duplex is a non-conforming structure, the site has provided two units since 1940, and the re-development of the site with 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 JADU as a means to mitigate for lost residential units. In this case, the development of an ADU/JADU on the project site would not be inconsistent with the certified LUP.

As of January 1, 2020, new State ADU/JADU laws went into effect that changed local governments' authority relating to regulation of ADU/JADUs with the goal of increasing statewide availability of smaller, more affordable housing units, which aligns with the

aforementioned Coastal Act policies. Similarly, SB 330 (Skinner), which also took effect January 1, 2020, enacted the Housing Crisis Act of 2019 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 subject application is not subject to the requirements of SB 330 because it was filed with the City before January 1, 2020. Furthermore, while Coastal Act Sections 30250 and 30253 align with SB 330's goals, the Housing Crisis Act does not apply to the Commission and does not modify the Coastal Act or the standard of review for this project.

Nevertheless, as explained above, the Coastal Act encourages the protection of housing opportunities for individuals of low and moderate incomes (PRC 30604), as well as the concentration of development in already developed areas that can accommodate it (PRC 30250) and the minimization of vehicle miles traveled (PRC 30253(e)). The certified LUP (which is not the standard of review, but provides guidance) does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. In previous applications in Hermosa Beach, the City of Hermosa Beach's former uncertified ADU ordinance restricted ADUs/JADUs to lots that were larger than 4,000 sq. feet and zoned single-family residential. Under the City's former ADU ordinance, the applicant for this project would not have been permitted to develop an ADU. However, as of January 1, 2020, the City's former ADU ordinance, which was not consistent with the new ADU law because it included a minimum lot size requirement, was deemed "null and void" under the new ADU law (Government Code § 65852.2(a)(4)). The City passed a new ordinance on January 14, 2020 (Urgency Ordinance No.20-1403-U), which amended the City's previous ADU ordinance to be consistent with the state laws that went into effect on January 1, 2020. Furthermore, Government Code §65852.2(e) mandates ministerial approval of certain application for ADUs or JADUs, regardless of whether a local government has adopted an ADU ordinance. Section 65852(e) requires the ministerial approval of an ADU or JADU within the proposed space of a single-family residence if the space has exterior access from the proposed single-family dwelling and the side and rear yard setbacks are sufficient for fire and safety. Thus, neither the certified LUP nor the City's ADU ordinance, prevent the applicant from constructing an ADU as part of this project.

Although the proposed JADU has been designed to function separately from the single-family residence, the JADU is dependent on the single-family residence to serve as a housing unit. The JADU shares utility lines (power, water) with the single-family residence. The JADU also cannot be sold separately from the single-family residence. This differs from a duplex, where the units can have separate utility connections and can be rented or sold independently from one another.

While it is true that JADUs are not independent housing units, JADUs do provide additional housing units in areas that are impacted by the housing shortage. JADUs are typically more affordable to rent because of their smaller size. With a living area less than 500 square feet, JADUs may not attract families, but are ideal for individuals or couples who may not otherwise be able to afford to rent out larger units. Overall, JADUs

do accommodate individuals other than the residents of the single-family residence and should therefore be considered to be additional living units.

Although the proposed JADU has been designed to function as a separate unit (as demonstrated through the inclusion of a separate exterior entrance, kitchen and bathroom), it is possible that the accessory unit may eventually be used in conjunction with a single-family use. In order to ensure that two housing units are maintained onsite, the Commission imposes **Special Conditions 1 and 4**, which require the applicant to maintain the proposed JADU as a separate unit and to not incorporate it into the rest of the single family residence and to record a deed restriction against the property that provides future owners with notice of all of the conditions of this permit, including the requirement to maintain the JADU as a separate unit.

More broadly, planning for concentration of development and encouragement of affordable housing can be done through a City's LCP, but is more difficult to do in a meaningful way on a project-by-project basis. Here, Hermosa Beach does not currently have a certified LCP. The Commission certified a Land Use Plan for Hermosa Beach in April 1982, but an Implementation Plan (IP) has not yet been finalized. The City of Hermosa Beach is currently working on a comprehensive update to the LUP, as well as an implementation plan, in order to create a complete LCP to be reviewed and certified by the Commission. Until an LCP has been approved for Hermosa Beach, the Commission shall continue to evaluate projects involving a loss of existing housing density on a case-by-case basis. In this case, the project, only as proposed and as conditioned by the Commission, will maintain two units onsite and will furthermore provide an affordable housing opportunity for a student, individual, or couple who may not otherwise be able to afford to rent out a larger duplex unit.

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

B. Public Access

The proposed development will not affect the public's ability to gain access to, and/or make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing

runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health, marine resources, water quality and the biological productivity of coastal waters.

D. 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 an additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

E. 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 Land Use Plan (LUP) for Hermosa Beach was effectively certified on April 21, 1982; however, because Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

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

F. California Environmental Quality Act

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

In this case, the City of Hermosa Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Hermosa Beach determined that the proposed development is exempt under Section 15303(a), which exempts construction of a single-family residence in a residential zone from CEQA requirements. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Coastal Development Permit Application No. 5-20-0223 and associated file documents.
- City of Hermosa Beach Certified Land Use Plan, Certified by the Commission on April 21, 1982.