

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



Th19c

Filed: 02/28/20
180th Day: 08/26/20
Staff: A. Spencer-LB
Staff Report: 08/20/20
Hearing Date: 09/10/20

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-19-1244

Applicant: TSNH Investments, LLC

Agent: Srour and Associates

Location: 3411 Hermosa Avenue, Hermosa Beach, Los Angeles County (APN: 4181-034-001)

Project Description: Demolish existing two story, 2,443 sq. ft. duplex and construct a two story (over partial basement), 3,850 sq. ft. single-family residence with a 450 sq. ft. JADU, attached 375 sq. ft., 2-car garage, and one guest parking space adjacent to the garage.

Staff Recommendation: Approval with conditions.

Staff Note: Under the Permit Streamlining Act, the timeframe for Commission action on this coastal development permit application is **August 26, 2020**, 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling timeframes for action on permit applications in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before **October 25, 2020**.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a 2,443 square-foot pre-coastal duplex and to construct a 25 ft. high, 3,850 square-foot two-level single-family residence, including a

ground-level patio, a partially subterranean basement, an attached square-foot junior accessory dwelling unit (JADU), and an attached 375 square-foot two-car garage. The proposed partial basement level is 1068 square feet and located partially below grade at the landward side of the residence. The basement would be approximately ten feet below grade on the landward side adjacent to Hermosa Avenue, and would daylight at grade level on the seaward side of the residence adjacent to the Strand ([Exhibit 2](#)). Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 430 cubic yards of cut.

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.

The project raises hazards concerns under section 30253 of the Coastal Act because it involves development in a low-lying area that is vulnerable to flooding, which may be exacerbated by sea level rise due to the site's oceanfront location. Although the residence is expected to be safe from coastal hazards over the anticipated life of the proposed structure, the project includes construction of a partially subterranean basement. Given the project's location in a hazardous, flood-prone area, where basement flooding could impact groundwater and endanger human life and property, Commission staff recommends approval of the project with **Special Condition 2**, requiring the applicant to waive any rights to shoreline protection, as well as **Special Condition 5**, requiring the applicant to assume the risks of development in an inherently hazardous area.

Another 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 one residential unit and would replace the lost residential unit with a 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(e)). These policies reflect an overarching 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 35 projects that converted multi-family developments to single-family residences in Hermosa Beach (for a total loss of 40 residential units) ([Exhibit 6](#)). 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. Recently, 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.

However, on the subject site, a duplex would not be consistent with the certified LUP. The project site is designated in the certified LUP as a Low-Density residential lot, which allows only one residential unit on the lot. A duplex also would not comply with the City's uncertified zoning code, which designates the site as an R-1 zoned lot that can only accommodate one unit per lot. Although the certified LUP limits development on low density properties to single-family residences, it does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. Furthermore, the City's ADU ordinance (which is not a part of the certified LUP), allows for construction of a JADU and ADU on the subject site, consistent with statewide ADU laws. And, as noted above, the site is located in a hazardous, flood-prone area, where it may not be necessarily appropriate to concentrate development. In this case, mitigation for the loss of one residential unit with a JADU is a compromise approach because there is no other option for a property owner to redevelop the site and the aging residential structure while maintaining the same number of housing units, consistent with both the LUP and the uncertified Zoning Code.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-19-1244 with eight special conditions. The motion and resolution can be found on Page 5.

TABLE OF CONTENTS

MOTION AND RESOLUTION.....	5
STANDARD CONDITIONS.....	5
SPECIAL CONDITIONS	6
FINDINGS AND DECLARATIONS.....	9
A. Project Description and Background	9
B. Hazards.....	10
C. Development.....	17
D. Public Access.....	25
E. Water Quality	27
F. Deed Restriction	29
G. Local Coastal Program	29
H. California Environmental Quality Act.....	30
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS	30

EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – CoSMoS Analysis](#)

[Exhibit 4 – Photo of Culvert](#)

[Exhibit 5 – Previous Commission Approvals of Housing Density Reduction Projects in
Hermosa Beach](#)

MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-19-1244 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 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. 5-19-1244 is for construction of a single-family residence with a 450 square foot 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. Waiver of Rights to Future Shoreline Protective Device.

A. By acceptance of this permit, the applicant acknowledges that the development authorized by this permit- including the single-family residence, junior accessory dwelling unit, attached garage, foundations, and patio- constitutes new development under the Coastal Act, and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

B. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the development authorized by the permit, and restore the site, if:

(1) the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;

(2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;

(3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or

(4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

In addition, the development approval does not permit encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to

the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval.

3. 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 November 8, 2019 showing that roof and surface runoff will be captured with downspouts and filtered catch basins, treated through an infiltration pit, and redirected to the municipal storm drain system using a sump pump. 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. The applicant has stated that they shall also comply with the applicable water efficiency and conservation measures of the City's adopted CALGreen standards concerning irrigation systems, and efficient fixtures and appliances.

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. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of

such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- 6. Minimum Seaward Setbacks.** The rear (seaward) setback of the structure shall not be less than 5 feet from the property line. This shall apply to all habitable areas, non-habitable areas, and foundation of the structure except for ground level patios.
- 7. Future Development.** This permit is only for the development described in coastal development permit (CDP) No. 5-19-1244. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions that would otherwise be provided in Public Resources Code (PRC) Section 30610(a) shall not apply to the development governed by CDP No. 5-19-1244. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP No. 5-19-1244 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition, an amendment to CDP No. 5-19-1244 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit pursuant to PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).
- 8. 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 Background

The applicant is proposing to demolish a 2,443 square-foot pre-coastal duplex (constructed circa 1927) and to construct a 25-foot high (above the interpolated grade line), 3,850 square-foot two-level single-family residence which includes a ground-level patio, a 1,068 square-foot partially subterranean basement, an attached 450 square-foot

junior accessory dwelling unit (JADU), and an attached 375 square-foot, two-car garage (a total of three stories). The proposed basement level would be located only partially below-grade as the seaward side of this level would be at the same elevation as the sandy beach ([Exhibit 2](#)). Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 430 cubic yards of cut.

The subject site is a beachfront lot located within a developed urban residential area approximately 1.15 miles north of the Hermosa Beach Pier ([Exhibit 1](#)). The project site is designated in the certified LUP as a low-density residential lot, which corresponds to the R-1 zone in the City's uncertified zoning code. The R-1 zone allows single-family residences and accessory structures such as garages, pools/spas, and patio covers. The subject lot is 2,275 square feet in size and is located adjacent to The Strand – an improved 26-foot wide public right-of-way that separates the residential development from the public beach. The proposed development (a single-family residence with an attached ADU) is permitted within the R-1 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. Hazards

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

“New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.”

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project raises potential hazards concerns related to the project site's location on an oceanfront lot, as well its location in a low-lying area that is inherently vulnerable to flooding. Thus, potential hazards issues that must be addressed include the potential for erosion, flooding, wave runup, and storm hazards associated with oceanfront development, as well as the risks of locating development in an area that is currently vulnerable to flooding. Both of these hazards concerns may be exacerbated by sea level rise that is expected to occur over the coming decades. These hazards issues are discussed more fully below.

Sea Level Rise

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.¹ Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. On November 7, 2018, the Commission adopted a science update to its Sea level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.” The most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 feet and 6.8 feet by the year 2100, though there is a risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss.² The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the “business as usual” scenario (and data suggests temperatures and sea level rise are tracking along the higher projections), the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

¹ <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

² This range of sea level rise reflects the low emissions scenario and high emissions scenario for a site located within the Santa Monica NOAA tide gauge and a medium-high risk aversion. According to the updated OPC guidance, the medium-high risk aversion scenario should be used when determining a residential structure’s vulnerability to sea level rise hazards.

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well (as evidenced by the recent updates to best available science). While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm impacts to coastal areas. For fixed structures on the shoreline, such as a seawall, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently. Accompanying this rise in sea level will be an increase in wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

The City of Hermosa Beach completed an initial sea level rise vulnerability assessment in 2014.³ The report indicates that the City's shoreline is highly vulnerable to change due to the very soft substrate (sand dunes) that were built upon, and the reduced influx of sediment to the littoral cell. The report also indicates that Hermosa Beach has gained significant beach width due to past sand replenishment projects, including replenishment needed to protect Los Angeles' Hyperion Sewage Treatment Plant, and that the structures protecting King Harbor in Redondo Beach, just to the south, serve as a sediment trap that benefits Hermosa's beach area. The report concludes on page 18 that:

"To the extent future coastal erosion increases as a result of sea level rise and related changes in sediment dynamics, and if future beach replenishment is not maintained, Hermosa Beach should expect a reduction of the protective beach buffer in front of the city. As a result, future flooding and storm surge could have a more destructive and farther-inland reaching impact than if the beach remains stable. In the absence of having [such] a detailed engineering study, the

³ Ekstrom, J, Moser, S. Vulnerability and Adaptation to Sea Level Rise: An Assessment for the City of Hermosa Beach, September 2014.

estimates of inland flooding under the higher sea level rise scenario used here thus may not fully capture the extent of potential risks to the city.”

Therefore, there is a high degree of uncertainty regarding future impacts of sea level rise within the City and at the project site, which is adjacent to The Strand, not only caused by the uncertainty of global sea level rise projections, but also by uncertainty related to the long-term effectiveness and feasibility of sand replenishment,⁴ as well as the potential for changes in coastal management approaches within the littoral cell, which could significantly impact sediment transport in the area. Future impacts from sea level rise may include not only increased hazards at the project site, but also loss of public beach area within the City. These impacts will be further evaluated and addressed in the City’s LCP planning process, which is currently underway.

Coastal Hazards and Shoreline Protection

The Coastal Act strongly discourages shoreline protective devices to protect oceanfront development because such structures generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. As a sandy beach erodes, the shoreline will generally migrate landward toward the structure, resulting in a reduction and/or loss of public beach area with no increase of the landward extent of the beach. A beach that rests either temporarily or permanently at a steeper angle, under natural conditions, will have less horizontal distance between the mean low water and mean high water lines, which narrows the beach sandy area available for public access. Shoreline protective devices also result in a progressive loss of sand because shore material is not available to nourish the nearshore sand bar. The lack of an effective sand bar can allow such high wave energy on the shoreline that sand materials may be lost offshore, where it is no longer available to nourish the beach. This also affects public access through a loss of sandy beach area. Shoreline protection devices such as revetments, seawalls, and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent beaches. Such a protective structure is often placed on public land rather than on the private property it is intended to protect, resulting in a physical loss of beach area formerly available to the general public. In general, shoreline protection devices are not attractive, can detract from a natural beach experience, and adversely impact scenic public views. Shoreline protective devices can also prevent the natural inland migration of public lands (whether submerged lands, tidelands, or public state lands) in areas where they are not adjacent to adjudicated property lines. Shoreline protective devices, by their very nature, tend to conflict with Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

⁴ As sea level rises, there will be larger demand for limited beach-suitable sediment, and increased waves and flooding will lead to more frequent and severe erosion events, thereby increasing costs and reducing the effectiveness of nourishment efforts.

Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically requires that new development minimize risk to life and property in areas of high flood hazards and prohibits development that could "...create [or] contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs," including the natural shoreline and seacliffs. This limitation is particularly important when considering new development, such as in this case, because if it is known that a new development may need shoreline protection in the future, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act. Therefore, the Commission's action on this project must consider the effects of wave uprush, flooding, and storm events (with sea level rise considerations) on public access and recreation.

For this project, the applicant has submitted a Coastal Hazard and Wave Runup Study dated September 16, 2019 and two supplemental documents dated December 12, 2019, and January 17, 2020 prepared by Geosoils, Inc. for the subject project. The study concludes that because there is a wide sandy beach (approximately 410 feet wide) between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. The report finds that this holds true even for an estimated sea level rise up to 5.7 feet. However, as stated above, the most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 and 6.8 feet by the year 2100, and 6.8 feet of sea level rise was not analyzed in the applicant's hazards analysis. In addition, these projections have a level of uncertainty, as beaches are dynamic areas and our understanding of climate change and sea level rise is constantly evolving. Therefore, the proposed new development, as a beachfront property, may be threatened by sea level rise at some point in the future if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area, which has been the general trend in sea level rise.

In order to analyze the project site for sea level rise impacts consistent with the Coastal Commission's Sea Level Rise Guidance, staff first followed the methodology outlined in the OPC's 2018 Sea level Rise document to establish a projected sea level range for the new development. The 2018 OPC guidance uses NOAA tide gauges, a projected project lifespan, and risk aversion scenario to estimate a sea level rise range. The sea level rise analysis assumed a 75-year projected lifespan for the project, consistent with the Commission's Sea level Rise Policy Guidance for residential development. According to the 2018 OPC update, the projected sea level rise range for the project site is tied to the Santa Monica NOAA Tide Gauge. This tide gauge estimates a range between 5.5 and 6.8 feet of sea level rise by 2100 (which falls within the 75-year projected lifespan for the project). With regard to the risk-aversion scenario, both the Commission's Sea level Rise Policy Guidance and the OPC documents recommend a medium-high risk scenario for residential developments. Under a 75-year projected lifespan, a medium-high risk scenario, and the project's location within the Santa

Monica NOAA tide gauge, staff estimated 6.8 feet of sea level rise within the project vicinity.

Using the sea level rise estimates listed above, staff used CoSMoS to analyze the project site's vulnerability to sea level rise impacts. Staff ran the CoSMoS model using a 6.6-foot sea level rise scenario (the closest available option that was within the determined sea level range) and a 100-year storm scenario to represent the worst-case scenario. Under an estimated 6.6-foot sea level rise and 100-year storm scenario, the project site is not anticipated to be subject to coastal erosion or wave uprush; however, as discussed, coastal areas are dynamic environments and it is difficult to predict with certainty how any particular project site will be impacted.

The project site is susceptible to coastal flooding under the OPC sea level rise projections. The projected flooding is likely due to the presence of a drainage culvert seaward and north of the project site ([Exhibit 4](#)). This projected flooding appears to only affect some properties along the northern end of The Strand (including the project site), as shown on [Exhibit 3](#), and does not extend throughout the whole beach-fronting Strand area. The presence of the culvert indicates that the flooding hazard might not be a direct result of coastal processes, but rather inland water flow that travels through the culvert. However, the CoSMoS models show that the flooding originating at the culvert is exacerbated with sea level rise.

The project, which includes the demolition of an existing duplex and construction of a single-family residence with an attached JADU, constitutes new development. As such, the new single-family residence and attached JADU are not entitled to shoreline protection and the Commission imposes **Special Condition 2** to confirm that the applicant is not entitled to shoreline protection for the development approved by this permit, including the residence, JADU, garage, foundations, and patio, and to waive rights to future shoreline protection. In addition, the applicant would be required to remove the approved development if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. In addition, the public trust boundary may migrate landward in response to rising sea levels.⁵ If the public trust boundary does migrate landward and encompasses the development approved under CDP No. 5-19-1244, the development would need to be removed pursuant to **Special Condition 2**.

The hazards analysis provided by the applicant's coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards and is not expected to need shoreline

⁵ The Public Trust boundary separates tidelands, submerged lands, and navigable waterways protected for public use from privately owned lands. For more information on public trust lands, visit <https://www.slc.ca.gov/public-engagement/>.

protection over the life of the development. However, given the dynamic nature of coastal beaches, as well as the long-term uncertainty of sea level rise models, it is important that the risks of developing on this beachfront lot are borne by the applicant who will benefit from the private development, and not the public. In addition, the proposed development is located in an area where dynamic and unpredictable coastal hazards exist that could adversely impact the development should the applicant's predictions of flooding and sea level rise prove to be inaccurate. Therefore, the Commission also imposes **Special Condition 5**, which requires the applicant to assume the risk of development within an area with a known vulnerability to coastal hazards, including, but not limited to, coastal flooding.

Basements and Hazards

The proposed project includes the construction of a partially subterranean basement on an oceanfront lot in Hermosa Beach. In general, and depending on the location, basement development can raise a number of coastal resource protection issues, and can be highly problematic in flood-prone and/or ocean-fronting areas. Future sea level rise and its associated hazards (e.g., erosion, flooding, inundation, rise in groundwater table, etc.) may exacerbate these Coastal Act concerns. For one, basements can potentially function as shoreline protective devices, which in general are not permitted for new development under section 30253(b) of the Coastal Act, either at the time of project approval or at any point in the future. Erosion and shoreline change will likely accelerate with sea level rise, which could cause basements on low-lying shoreline lots to daylight and potentially function as shoreline protective devices by guarding the residence from coastal erosion at the expense of public beaches, much like a seawall. Additionally, much like an actual seawall, a basement that becomes exposed as a result of erosion caused by increased wave uprush could harm coastal resources that lie between the basement and the sea—such as the beach or other coastal habitats—as rising seas flood the area and increase erosion rates by reflecting wave energy. These coastal processes could potentially adversely affect public access, beach width, shoreline sand supply, visual resources, or environmentally sensitive habitat areas. In this respect, constructing new basements on oceanfront properties could conflict with section 30253 which provides that that new development “shall not contribute to erosion, geologic instability, or the destruction of the site or surrounding area,” as well as other resource protection policies of Chapter 3.

Proposed basements can raise hazards concerns, particularly in flood prone areas, because they often are designed to house electrical and mechanical components and/or household chemical storage that could compromise human safety and coastal resources. Storage of hazardous materials and common household products in basements could present coastal resource and public safety issues if flooding occurs. For example, a flooded basement containing paints, bleach, cleaning materials, etc., may release harmful toxins into the water and/or impact water quality, surrounding coastal habitats and species, as well as human health. In addition, locating critical mechanical and electrical equipment in basements could also present important human health and safety concerns (e.g., electrocution, interruption in public infrastructure services) if flooded.

Basements can also complicate the removal of the associated structure, and are difficult to remove themselves, if removal is necessary to minimize risks to life and property in a hazardous area. In cases where sea level rise may impact development in the future, the Commission has in the past imposed conditions requiring removal, relocation, or elevation of structures at a specified future time. This ensures that the development will appropriately minimize risks to life and property pursuant to Coastal Act Section 30253 and protect coastal resources consistent with other Coastal Act provisions. However, basements could make compliance with such conditions more difficult and/or result in greater impacts to coastal resources. The impacts associated with removing substantial subsurface development could be inconsistent with the Section 30253 requirement that new development “shall not contribute to erosion, geologic instability, or the destruction of the site or surrounding area,” and that projects should be sited and designed to avoid those impacts.

In this case, the project site is located on a beach-fronting lot and is set back approximately 400 feet from the mean high tide line. The applicant proposes to construct a partially subterranean basement. The basement would be approximately ten feet below grade on the landward side adjacent to Hermosa Avenue, and would daylight at grade level on the seaward side of the residence adjacent to the Strand. According to the coastal hazards discussion detailed above, the project site is currently vulnerable to flooding from a nearby culvert, which may be exacerbated by sea level rise. The project plans indicate that the lowest level of the residence would be located approximately 10 feet above the water table. Although the applicant’s hazards analysis indicates that the project site is not likely to become subject to wave uprush or ocean-related flooding over the projected 75 year life of the structure, given the currently vulnerable and flood-prone location of the project site, construction of a completely below-grade basement at this location involves risks to life and property that ideally would be avoided and, if unavoidable, minimized. Here, the lowest level of the residence is below grade on the landward side adjacent to Hermosa Avenue, and at grade adjacent to the Strand and the beach. Given that the portion of the residence that is below grade is approximately 10 feet above the projected groundwater level, the residence is not likely to adversely impact groundwater. This holds true considering the potential for the groundwater level to rise as a result of rising sea levels.

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

C. 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”

Section 30604 of the Coastal Act states, in pertinent part:

“Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons

...

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.”

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

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 35 projects within the last five years that converted multi-family units to single-family residences (a total loss of 40 residential units).⁶ 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.⁷

The Certified LUP’s Density Limits

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

LOW DENSITY: 0 to 13 dwelling units per net acre. This density would consist mostly of single-family homes. Existing single-family homes on 50 x 100 -foot lots represent the predominate use and development in the area set aside for this density. The Low Density area also includes some small lots, some duplex sites and some multi-family sites. It is intended that any development of these sites in the future shall fall within the specified density range (minimum of 3,350 square feet of lot area per unit).

The LUP low-density designation corresponds to the R-1 zone 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
------	------	----------------------------

⁶ Refer to [Exhibit 6](#)

⁷ Refer to the staff report for CDP Application No. 5-18-0380 (S.M. Star, LLC)

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 Low-Density LUP designation in that a duplex is currently available on site. Although the certified LUP defines low-density development as consisting primarily of single-family residences, the definition does acknowledge that some duplexes may exist within the Low-Density Zone. However, the duplex is not 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-1 zone, the project site can only accommodate one on-site residential unit, regardless of lot size. Under the certified LUP, therefore, the existing duplex is a nonconforming structure that can either be retained or redeveloped with a single-family residence.

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 0.2 mile. (an approximately four minute walk) from a bus stop on the intersection of Manhattan Avenue and 1st 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. The project site is also located 0.2 mile (an approximately 4 minute walk) from the closest Commuter Express 438 bus stop, also located at the intersection of Manhattan Avenue and 1st Street. The Commuter Express 438 Bus 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.

Although this project would result in a loss of one residential unit, mitigated to some extent by a proposed ADU, 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 resulting in the production of more greenhouse gases.

However, as explained above, the project site is located in an area that is vulnerable to sea-level rise induced flooding. Although the project site is only vulnerable to flooding under a 6.6-foot sea level rise scenario, it raises a question as to whether it is appropriate to maintain density on beach-fronting lots, which are most vulnerable to coastal hazards. In its consideration of CDP Application 5-19-0955 (Lesman), the Commission found that a single-family residence with an ADU is appropriate development for beach-fronting lots along this stretch of The Strand, despite the difficulty to enforce an ADU on the site (an issue that will be explained in more detail below). This implies that maintaining two full units on a vulnerable beach-fronting lot may not be appropriate on this site, and that development would be better sited on inland lots that are not subject to the same coastal hazards.

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. In this case, the certified LUP allows one unit on the project site and the area in which the site is located is an existing developed area where duplexes and other multi-family residences are common and is well-served by public transportation and other amenities. In addition, this project does not appear to be an isolated case; the pattern of development in Hermosa Beach involving conversion of duplexes and other multi-family residences to single-family homes means that the potential impacts to coastal resources from reducing housing density at this location are likely much more significant.

Housing Density and ADU/JADUs

The existing duplex is a nonconforming structure under the certified LUP that has provided two units since 1927; 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 low-density residential, or R-1 zone, the development of an ADU/JADU in conjunction with a single-family residence on the project site would be consistent with the certified LUP⁸. 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 the City's uncertified ADU ordinance adopted on January 14, 2020 (Urgency Ordinance No.20-1403-U).⁹

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. In addition, it appears that the Act's "no net loss" requirement does not apply to this project as to the City, because the applicant submitted a complete application to the City prior to January 1, 2020 (Government Code § 6300(d)(4)). 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 Commission has five pending applications in Hermosa Beach, at least two of which were submitted after implementation of the Housing Crisis Act and that propose the replacement of duplexes with single-family residences and ADUs. Therefore, it appears that the housing trend in Hermosa identified above is likely to continue, as the City's approval of recent projects suggests that it will not deny projects, such as this one, that demolish duplexes and construct single-family residences.

In response to the new state ADU laws, the applicant revised the project description to incorporate an attached 450 square-foot ADU located on the partially daylight basement level of the residence ([Exhibit 2](#)). The ADU is consistent with the state and local government development standards for ADUs, and in this case would serve as a mitigation measure for the lost residential unit because the subject lot cannot be redeveloped with a duplex under the certified LUP.

⁸ The certified LUP does not preclude ADUs/JADUs from being constructed in conjunction with a new or existing single-family residence.

⁹ 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 state ADU law (Government Code § 65852.2(a)(4)). And, on January 14, 2020.

Although the Commission has previously considered the development of ADUs/JADUs as adequate mitigation for housing density reduction, in light of a persisting lack of housing supply across the state (particularly in the coastal zone), it has become apparent that replacement of a full housing unit with an ADU/JADU may not always adequately mitigate for impacts of loss of housing density in the Coastal Zone. ADUs/JADUs are important mechanisms to increase the potential number of independent housing units that can be rented out separately from the primary residence. Although ADUs are typically designed to function separately from the single-family residence, the ADU is dependent on the single-family residence to serve as a housing unit. The ADU shares utility lines (power, water) with the single-family residence. This differs from a duplex, where the units can have separate utility connections. In addition, the Commission, for instance, does not have the authority to require that an ADU/JADU be rented out for the life of the structure, and, 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. Therefore, there is no guarantee that an ADU will be used or rented as a second unit. In this case, the applicant is proposing an attached 450 square-foot JADU that would be located on the second floor of the residence. Although the proposed JADU would have a separate exterior entrance (pursuant to the State's ADU requirements), the ADU could be incorporated into the primary residence, and still could be used by the homeowner.

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) limits development on R-1 zoned properties to single-family residences, but does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. In addition, the City passed a new ADU 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. The City's ADU ordinance allow for construction of an attached JADU with a proposed single-family residence, as is proposed here. Furthermore, regardless of what the City's ADU ordinance requires or allows, Government Code § 65852.2(e) mandates ministerial approval of certain applications for ADUs or JADUs. Section 65852.2(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.

Therefore, while the project may contribute somewhat to the cumulative loss of housing density in Hermosa, construction of a single-family residence with a JADU, as has been proposed by the applicant, may be the best option for minimizing cumulative loss of housing density in a way that is consistent with the certified LUP.

The existing duplex was constructed in 1927. Although the applicant has not provided information indicating that the duplex is uninhabitable, the 93-year old structure has surpassed the anticipated 75-year life span of residential structures and would likely

need to be redeveloped in the near future. Under both the certified LUP and the City's uncertified zoning code, another duplex or similar two-unit structure cannot be developed on the project site. Therefore, redevelopment on this site would eventually result in the loss of a residential unit. In this case, the proposed 450 square-foot JADU is a feasible mitigation option to offset the loss of one residential unit. The proposed JADU is consistent with state and local laws and has been designed in a manner that renders the JADU more likely to be rented out. The JADU has been sited on the lowest level of the residence and features a separate exterior entry (pursuant to the State's ADU requirements), as well as a defined living area, dining/kitchen area, and restroom area. The JADU design resembles a studio apartment and can be a reasonable accommodation for an individual or a couple. In this case, the development of a single-family residence with a JADU is an appropriate compromise approach to address the proposed loss of one residential unit that would result from redeveloping the project site.

As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Sections 30250, 30251, and 30604 of the Coastal Act pertaining to new development, community character and encouragement of affordable housing.

D. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

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

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

[...]

(2) adequate access exists nearby, ..."

The project site is located adjacent to The Strand, an approximately 20-foot wide public lateral walkway ([Exhibit 1](#)). The Strand extends for approximately 4 miles, from 45th

Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). Approximately 20 feet of The Strand is developed with a paved multi-use path used by both residents and visitors for recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. Portions of The Strand contain approximately 5-6 feet of private encroachments that have been developed by adjacent homeowners pursuant to the City's encroachment permit program. However, the project site does not have an encroachment area abutting The Strand. The nearest vertical public access to the beach is available via the public right-of-way at the western end of 35th Street, located 243 feet north of the site.

Historically, the pattern of development for beachfront lots in the Southern California region has included minimal setbacks from lateral coastal access trails. However, this previous pattern of development has resulted in inadequate setbacks between private and public spaces, which has resulted in the appearance that the areas designated for future public access are actually private. Without adequate buffers between private residential development and public spaces, conflicts arise which could potentially result in the obstruction and/or loss of public access in this area. Specifically, without adequate setbacks, the close proximity of the residence effectively privatizes the public beach and walkway area in front of the residences because the public is uncomfortable being so close to the residential structures and will not use that portion of the beach. In addition, the provision of an inadequate setback between the private structure and the public area of the sandy beach would not allow adequate space on the applicants' property for normal maintenance, such as painting and other repair and maintenance activities to occur without encroaching into the public access way.

For the reasons discussed above, the provision of an adequate setback between private development and areas specifically designated for public access and recreation is critical given the potential for such areas to appear to be private property, and to avoid potential conflicts between private property owners and members of the public. In previous projects, the Commission has required a minimum five-foot setback between the structure and the seaward property line. As the project plans illustrate, the proposed single-family residence is set back six and a half feet from the walkway. If the proposed development were constructed with a zero-foot setback from the property line, it would be immediately adjacent to the public right-of-way and there would be no space for a private patio on the private property. The proposed project is consistent with the City's minimum five-foot minimum setback from the seaward property line and is consistent with past Commission action that imposes conditions for a minimum setback from public beaches and public rights-of-way. Furthermore, the five-foot setback area will allow the homeowner to perform repair and maintenance activities on the residence from private property, without blocking public beach access across The Strand. In order to ensure consistency with the public access requirements of the Coastal Act, the Commission imposes **Special Condition 6**. This condition requires the structure to maintain a minimum five-foot setback from the seaward property line on all levels of the structure. As conditioned, the project will not adversely impact the public's ability to recreate to and along The Strand. The development also proposes three on-site parking spaces,

consistent with the parking requirements found in the certified LUP. Therefore, the project will not impact public beach parking in the project vicinity.

The project has been designed and conditioned to be consistent with the relevant Coastal Act Chapter 3 policies. However, the project's location adjacent to the beach may cause adverse impacts to coastal views and public access. Section 13250 of the Title 14 California Code of Regulations (CCR) states that internal floor area additions that are less than 10 percent of the current structure's floor area, and height increases of less than 10 percent of the current structure's height, are exempt from permit requirements, given that the structure is between the beach and the first public access road parallel to the beach. However, for the residences adjacent to The Strand, even minimal increases in height or floor area have the potential to impact public beach access routes or close off view corridors from public viewing areas. Therefore, the Commission imposes **Special Condition 7**, requiring the applicant to submit a new CDP application or amendment application for any future improvements, even those improvements that would normally be exempt from permit requirements under Section 13250 of the Title 14 CCR.

As proposed and conditioned, the proposed 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.

E. 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 applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

The proposed project includes construction of a partially subterranean basement. The applicant has submitted a Preliminary Soils Investigation Report in conjunction with the proposed excavation activities for the basement. The report indicates that the groundwater level occurs 14 feet below grade, and the project plans indicate that the lowest level of the residence is 10.1 feet above the water table level. The applicant also asserts that dewatering would not be required for the residence either during or after construction. Given the dynamic nature of beaches, particularly in light of sea level rise, it is unclear exactly how much the groundwater table would rise over the next century. However, the soils report concludes that even with 6.6 feet of sea level rise, the lowest level of the residence would still be 3.5 feet above the water table and would not require dewatering. Therefore, the proposed residence is not likely to adversely impact groundwater quality.

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

applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. Roof runoff will be collected in roof gutters and will be directed down roof downspouts that connect to catch basins with filter inserts (which would also collect surface runoff) and an infiltration pit with four Ecorain tanks to filter runoff. The filtered water would then be directed to a sump pump station before being directed to the Hermosa Avenue storm drain.

The applicant has stated that landscaping will consist of California native and water wise landscaping. 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.

F. 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 8**, which requires 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 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.

G. 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.

H. 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. 5-19-1244 and associated file documents.
- City of Hermosa Beach Certified Land Use Plan.