

CALIFORNIA COASTAL COMMISSION

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Th19d

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-20-0142

Applicant: 316 24th Street Holdings, LLC

Agent: Srour and Associates

Location: 316 24th Street, Hermosa Beach, Los Angeles County (APN: 4182-016-019)

Project Description: Demolish a 2,173 sq. ft. residence and 528 sq. ft. accessory unit, and construct a three-story (over basement) 4,118 sq. ft. single-family residence with a 531 sq. ft. ADU, attached 408 sq. ft., two-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 **September 29, 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 **November 28, 2020**.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a 2,173 square foot residence and an attached 528 square foot accessory unit, and to construct a 25-foot high, 4,118 square foot, three-level single-family residence with a ground-level patio, partially subterranean

basement and first floor, attached 531 square foot accessory dwelling unit (ADU), and an attached 408 square foot, two-car garage. The proposed basement is 1,425 square feet and the first floor is 977 square feet including the 531 square foot ADU; both floors are located partially below grade. The basement would be approximately 17.5 feet below grade on the eastern side of the residence and 12 feet below grade on the western side of the residence, with a daylighting window at proposed grade level on the western side. The first floor would be approximately 9 feet below grade at the eastern side of the residence and would fully daylight at grade level on the western side of the residence ([Exhibit 2](#)). Thus, the total size of the new proposed structure is 5,057 square feet, including the primary residence, the ADU, and the two-car garage (for a total of four stories). Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 925 cubic yards of cut.

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

The primary issue raised by this project concerns the potential cumulative effects of loss of housing density in Hermosa Beach, which is an issue of concern to the Commission. The Coastal Act encourages the concentration of new development in already developed areas that are able to accommodate it in order to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (PRC 30250 and 30253(e)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

Evidence before the Commission establishes that 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 4](#)). In the past, therefore, the Commission has encouraged the construction of ADUs to mitigate for the impact of demolished units and loss of housing density, although recently that approach was often a compromise solution for projects where a multi-family structure would not be consistent with the certified LUP. In addition, the Commission has recently questioned whether ADUs adequately mitigate for the loss of housing density that results from demolition of duplexes and other multi-family developments.

Here, however, the applicant proposes to replace a primary residence and accessory unit with a larger primary residence and accessory unit; therefore, density on-site will be maintained. In addition, 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 an ADU on the subject site, consistent with statewide ADU laws. Therefore, construction of a single-family residence and an ADU is consistent with the LUP. In addition, approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions thereof will result in resolution of a Coastal Act violation described below.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-20-0142 with four special conditions. The motion and resolution can be found on Page 5.

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EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Applicant’s Response to Neighbor’s Letter of Concern](#)

[Exhibit 4 –Commission Approvals of Housing Density Reduction Projects](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-20-0142 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.

II. 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.

III. SPECIAL CONDITIONS

1. **Retention of Two Onsite Units.** The development approved by Coastal Development Permit No. 5-20-0142 is for construction of a single-family residence with a 531 square foot ADU. The applicant and all assigns/successors shall maintain the ADU as a separate residential unit. At no point may the ADU be incorporated into the single-family residence or converted to a 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 March 2, 2020 indicating 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.
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.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The applicant is proposing to demolish a residence, consisting of a 2,173 square foot primary unit constructed in 1989 and a smaller, pre-coastal 528 square foot accessory unit constructed in 1945. The applicant proposes to construct a 25-foot high (above the interpolated grade line), 4,118 square foot single-family residence with a ground-level patio, partially below-grade basement and first floor, and an attached 408 square foot two-car garage with a third parking space on-site ([Exhibit 2](#)). The proposed residence includes an attached 531 square foot ADU with a separate kitchen and bathroom on the partially subterranean first floor. Thus, the total size of the new proposed structure is 5,057 square feet, including the primary residence, the ADU, and the two-car garage (for a total of four stories). The proposed subterranean levels would be located only partially below-grade, as the site grade slopes downward from the east elevation to the west elevation ([Exhibit 2](#)). Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 925 cubic yards of cut.

The subject site is a 2,893 square foot lot sloping downward toward the coast, approximately 830 feet inland of The Strand— an improved 26-foot wide public right-of-way that separates the residential development from the public beach and 0.6 mile north of the Hermosa Beach Pier ([Exhibit 1](#)). The majority of the parcels surrounding the project site accommodate multi-story single-family and multi-family homes. The proposed 25-foot high, 4,118 single-family residence with an attached 531 square foot ADU is of similar mass, scale, and density as other properties in the project vicinity.

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, and has a maximum requirement of one unit per lot. 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 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.

On August 13, 2020, a member of the public submitted a letter and supporting geotechnical report in order to raise concerns that the project would adversely impact his home, which is located directly adjacent to the subject site. The applicant has provided a response letter, which is attached as [Exhibit 3](#) to address this concern.

B. Development

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

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

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

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

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

“New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled”

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) ([Exhibit 4](#)). 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.¹

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

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
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 two-unit structure, consisting of a primary unit and smaller accessory unit, 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 and multi-family structures may exist within the Low-Density Zone. The current residence and accessory unit is also 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. However, the second accessory unit, though constructed many years ago prior to adoption of the Coastal Act, is akin to an accessory dwelling unit under recently amended statewide ADU laws; pursuant to the statewide laws, ADUs do not exceed the allowable density for the lot on which the ADU is

located.² However, due to the LUP's density restrictions, a duplex or other multi-family structure would not be allowed on this site.

The applicant and the City have characterized the current residence, consisting of a 2,173 square foot primary unit and 528 square foot accessory unit, as a nonconforming duplex. However, duplexes typically feature two units roughly proportional in size, and the existing development more closely resembles the structuring of the proposed 4,118 square foot single-family residence with an attached 531 square foot ADU. The existing garage and accessory unit structure are pre-coastal and were constructed in 1945, while the larger primary unit was constructed in 1989. The construction of the primary unit in 1989 should have obtained a CDP issued by the Commission. However, while the property owner at that time obtained local approval from the City, our staff became aware in July 2020 that the original structure was constructed without benefit of the necessary CDP. Furthermore, construction of a duplex should not have been allowed on the site considering the LUP designation as Low-Density residential and the lot designation as R-1 per the City's uncertified zoning code. Regardless, if the Commission approves CDP No. 5-20-0142 pursuant to the staff recommendation the violation associated with the unpermitted construction of the larger primary unit will be resolved. Therefore, staff have characterized the current development as a 2,173 square foot residence and an attached 528 square foot accessory unit for the purposes of project analysis.

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. LUP policies to protect existing housing stock

² Government Code section 65852.2, which governs development of accessory dwelling units, does not supersede or in any way alter the Coastal Act. However, given the statewide policy encouraging ADUs, the Commission has discretion when applying the Coastal Act to treat ADUs as accessory units that are not counted for purposes of the LUP's density limits, consistent with the ADU laws.

in Hermosa Beach support and are consistent with the Coastal Act policies encouraging concentrating development in areas that can accommodate more dense development.

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 0.6 mile (an approximately ten-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 0.6 mile (an approximately ten-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.

Given the housing trends in Hermosa Beach, it is important to consider the potential for adverse cumulative effects of loss of residential housing in areas able to accommodate such density, which 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. This would likely increase reliance on automobiles, resulting in the production of more greenhouse gases. However, the project will result in the replacement of a primary residence and accessory unit with a larger primary residence and an accessory unit; therefore, housing density will be maintained. In addition, a duplex would not be consistent with the certified LUP zoning for this project site. Therefore, the only option available to the applicant for redeveloping the site that would maintain density would be to construct a single-family residence and an ADU.

Housing Density and ADU/JADUs

In previous projects, the Commission has encouraged the development of an ADU or JADU as a means to mitigate for lost residential units. 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 LUP³. In addition, an ADU/JADU on the project site appears consistent with recent updates to statewide ADU

³ The certified LUP does not preclude ADUS/JADUs from being constructed in conjunction with a new or existing single-family residence.

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).⁴

On January 1, 2020, new housing laws went into effect that seek to address the statewide housing crisis by encouraging the maintenance of existing multi-family residential density (SB330) and provision of additional ADUs (Government Code §§ 65852.2, 65852.22). The Housing Crisis Act, in particular, prohibits local governments from approving residential projects that would demolish more “dwelling units” than are created by the project (no net loss). The Housing Crisis Act does not apply to the Commission or modify the Coastal Act. Nevertheless, it appears that the City has taken the position that an ADU satisfies the no net loss requirement of the Housing Crisis Act. The Commission has five pending applications in Hermosa Beach, at least two of which (including the subject proposal) were submitted after implementation of the Housing Crisis Act, 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 two-unit structures and construct single-family residences, even for applications submitted after January 1, 2020.

The applicant's proposed project includes a 531 square foot ADU located on the partially-subterranean first floor of the residence ([Exhibit 2](#)). This proposed ADU is slightly larger in size than the existing 528 square foot accessory unit which is currently attached to a 2,173 square foot primary residential unit. The proposed 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.

Although the Commission has previously approved similar projects that have relied on ADUs/JADUs as adequate mitigation when projects have resulted in the loss of housing density—for example, when a duplex is demolished and replaced with a single-family residence—this often was due to the fact that the subject multi-family structure was non-conforming with the certified LUP requirements. However, 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; instead, this has frequently been a compromise solution when maintaining multiple residential units on-site was not consistent with the certified LUP. Although ADUs are typically designed to function separately from the single-family residence, the ADU is dependent

⁴ 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.

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 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 531 square foot ADU that would be located on the first floor of the residence. Although the proposed ADU 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 allows for construction of an attached ADU 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.

The existing 528 square foot accessory unit was constructed in 1945. Although the applicant has not provided information indicating that the residential unit is uninhabitable, the 75-year old structure will soon surpass 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, a duplex or multi-family structure cannot be developed on the project site. The proposed ADU is consistent with state and local laws and has been designed in a manner that renders the ADU more likely to be rented out. The ADU has been sited on the first floor 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 ADU design resembles a studio apartment and can be a reasonable accommodation for an individual or a couple.

Therefore, while the Commission acknowledges the cumulative loss of housing density in Hermosa Beach, construction of a single-family residence with an ADU, as has been proposed by the applicant, is the only option for redeveloping the site that is consistent with the certified LUP. In addition, the project will maintain density on-site by replacing a

primary residence and accessory unit with a primary residence and accessory unit. In order to ensure that the proposed ADU is not incorporated into the primary unit or converted to non-residential use in the future, **Special Condition 1** imposes the retention of the ADU as a separate residence for the duration of the development lifetime.

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.

C. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

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

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

[...]

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

The project site is located 830 feet inland of the public beach, in a built-out residential neighborhood of Hermosa Beach ([Exhibit 1](#)). The project includes a two-car garage consistent with the City's parking requirements, in addition to one guest parking space in the driveway. The parking spaces would be accessed from 24th Street and the project does not propose any curb cuts; thus, the existing on-street parking will not be adversely impacted. The proposed project also adheres to the height and setback requirements set forth in the certified LUP.

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

D. Water Quality

Section 30230 of the Coastal Act states:

“Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.”

Section 30231 of the Coastal Act states:

“The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.”

Section 30232 of the Coastal Act states:

“Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.”

Construction Impacts to Water Quality

The above policies of the Coastal Act require protection of marine resources, including the protection of coastal waters by controlling runoff and preventing spillage of hazardous materials.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 3**, 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 and first floor. The applicant has submitted a Geotechnical Engineering Investigation report in conjunction with the proposed excavation activities for the basement, which indicates that the groundwater level does not occur within 24-feet below grade. The project plans indicate that the lowest level of the residence is approximately 17.5-feet below grade and would maintain a minimum distance of 6.5 feet between the elevation of the lowest floor level and any possible groundwater on site. The applicant has also indicated that dewatering would not be required for the residence (neither during nor after construction). 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 Ecorain tanks to filter runoff. The filtered water would then be directed to a sump pump station before being directed to the 24th Street 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 consists 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 2**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

E. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 4**, 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.

F. Coastal Act Violation

Violations of the Coastal Act that are associated with the subject property have been undertaken including the unpermitted construction of the primary structure in 1989 without benefit of the necessary coastal development permit.

While the property owner at that time obtained local approval from the City, in July 2020, our staff became aware that the original structure was constructed without benefit of the necessary coastal development permit. However, if the Commission approves CDP No. 5-20-0142 pursuant to the staff recommendation the violation associated with the unpermitted construction of the larger primary unit will be resolved.

Consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a coastal permit, or of any other development.

G. Local Coastal Program

Coastal Act Section 30604(a) states that, prior to certification of a LCP, a CDP can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The LUP for Hermosa Beach was effectively certified on April 21, 1982; however, because Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified 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, either individually or cumulatively with other past, present, or reasonably foreseeable probable future projects. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Coastal Development Permit Application No. 5-20-0142 and associated file documents.
- City of Hermosa Beach Certified Land Use Plan, Certified by the Commission on April 21, 1982.
- Past Commission Actions on Density Reduction Projects in Hermosa Beach.