

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 09/10/20

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-20-0223

Applicant: Clifford Wang

Agent: Srour and Associates

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

Project Description: Demolish an existing two-story, 20-foot high, 1,100 square-foot duplex and a detached garage. Construct a new two-story (over a partial basement), 30-foot high, 3,640 sq. ft. single-family residence with a 500 sq. ft. roof deck, 502 sq. ft. attached accessory dwelling unit (ADU), attached two-car garage, and one guest parking space in the driveway.

Staff Recommendation: Approval with conditions.

Staff Note: Under the Permit Streamlining Act, the time-frame for Commission action on this coastal development permit application is **November 7, 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 time-frames 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 **January 6, 2021**.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a 1,100 square-foot duplex and a detached garage, and to construct a 3,640 sq. ft., two-level single-family residence with a 500 sq. ft. roof deck, a partially below-grade basement and an attached 467 sq. ft. two-car garage ([Exhibit 2](#)). The residence includes an attached 502 sq. ft. accessory dwelling unit (ADU) with a separate entry, kitchen, and bathroom. Thus, the total size of the new proposed structure is 4,107 sq. ft. including the primary residence, the ADU, and the garage. The applicant is also proposing 455 cu. yds. of grading to be exported outside the coastal zone. The Commission certified the City's LUP in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for the project, with the certified LUP used as guidance.

The primary issue raised by this project concerns the cumulative effects of loss of housing density as a result of demolition of the existing duplex and construction of a single-family residence. As proposed, the project would eliminate one 487 sq. ft. residential unit and would replace the lost residential unit with a 502 sq. ft. ADU. The Coastal Act encourages the concentration of new development in already developed areas that are able to accommodate it in order to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (PRC 30250 and 30253(d)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

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

On the subject site, however, a duplex would not be consistent with the certified LUP. The project site is designated in the certified LUP as a medium density residential lot (14-25 DU/AC), which corresponds to the R-2 zone in the City's uncertified zoning code. The Residential Zone Requirements in the certified LUP state that a minimum of 1,200 square feet is required for each dwelling unit on an R-2 lot. The project site has a lot size of 2,333 square feet, which allows only one unit to be developed on the lot under the LUP. Although the certified LUP limits development on medium density properties with lot sizes under 2,400 sq. ft. 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

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for construction of a JADU and ADU on the subject site, consistent with statewide ADU laws. In addition, the proposed ADU (502 sq. ft.) is larger than one of the duplex units it is replacing (487.5 sq. ft.) ([Exhibit 3](#)). In this case, mitigation for the loss of one residential unit by including the construction of an ADU is a compromise approach because there is no other option for the 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 5-20-0223 with four special conditions. The motion and resolution can be found on Page 4.

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EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Area Calculation of Existing Unit](#)

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

MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-20-0223 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. 5-20-0223 is for construction of a single-family residence with a 502 square foot accessory dwelling unit (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 April 20, 2019 showing that roof and surface runoff will be captured with a trench drain and an on-site drainage system that connects to the municipal storm drain system. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. The applicant shall incorporate Best Management Practices (BMPs) into the construction and post-construction phases of the subject development.

B. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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

A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;

B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;

- C.** Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
 - D.** Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
 - E.** All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - F.** The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - G.** Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - H.** All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - I.** Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
 - J.** The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - K.** Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
 - L.** Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
 - M.** All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 4. Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and

approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

FINDINGS AND DECLARATIONS

A. Project Description and Background

The applicant is proposing to demolish a 1,100 sq. ft. duplex and a detached garage, and to construct a 3,640 sq. ft., two-level single-family residence with a 500 sq. ft. roof deck, a partially below-grade basement and an attached 467 sq. ft. two-car garage ([Exhibit 2](#)). The residence includes an attached 502 sq. ft. accessory dwelling unit (ADU) with a separate kitchen and bathroom. Thus, the total size of the new proposed structure is 4,107 sq. ft., including the primary residence, the ADU, and the garage. Non-invasive, drought tolerant landscaping is proposed for the project. Four hundred and fifty-five cu. yds. of grading is proposed to be exported outside the coastal zone.

The subject site is a 2,333 sq. ft. lot sloping downward toward the coast, approximately 900 ft. inland of the public beach in a built out residential neighborhood in Hermosa Beach. The majority of the project site's surrounding parcels accommodate 3-story, 30 ft.-high single family and multi-family homes ([Exhibit 1](#)). The proposed 30-ft. high, 3,640 sq. ft. single-family residence is of similar mass, scale, and density as other properties in the project vicinity. The lot is currently developed with a two-story, 1,100 sq. ft. duplex and a detached garage that were constructed in 1921, prior to passage of the Coastal Act.

The project site is designated in the certified LUP as a medium-density residential lot, which corresponds to the R-2 zone in the City's uncertified zoning code. The R-2 zone allows two-family homes and single-family homes, including garden apartment and townhouses. R-2 zone requires a minimum lot area of 1,200 sq. ft. for every dwelling unit. The proposed development (a single-family residence with an attached ADU) is permitted within the R-2 zone.

The Commission certified the City's LUP in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal

Act constitute the standard of review for the project, with the certified LUP used as guidance.

B. Development

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

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

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

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

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

“New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled”

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

The Certified LUP's Density Limits

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

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

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

The LUP medium-density designation corresponds to the R-2 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 Medium-Density LUP designation. The certified LUP defines medium-density development as consisting mostly of two-family homes and single-family homes. The existing 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-2 zone, the project site can only accommodate one on-site residential unit, because the lot size (2,333 sq. ft.) cannot accommodate two units which require a minimum lot size of 2,400 sq. ft. 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 0.1 mile. (an approximately three minute walk) from a bus stop on the intersection of Hermosa Avenue and 19th Street. This bus stop is served by the Beach Cities Transit 109 line, which connects the three “Beach Cities (Redondo Beach, Hermosa Beach, and Manhattan Beach)” to El Segundo and LAX, and Commuter Express 438 line, which connects the South Bay Area to Downtown Los Angeles. Thus, the project site is located in an already densely developed area that contains a multi-modal transit system that connects to the greater Los Angeles region.

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.

Thus, the LUP policies to protect existing housing stock in Hermosa Beach support and are consistent with the Coastal Act policies encouraging concentrating development in areas that can accommodate more dense development. Although the project site is located in an area that would be appropriate for maintaining housing density and does raise concerns regarding the cumulative loss of housing density in Hermosa Beach, in this case, the certified LUP allows only one unit on the project site.

Housing Density and ADU/JADUs

The existing duplex is a nonconforming structure under the certified LUP that has provided two units since 1921; therefore, the re-development of a single-family residence would result in the loss of one existing residential unit. In previous projects, the Commission has encouraged the development of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) as a means to mitigate for lost residential units. In the medium-density residential, or R-2 zone, the development of an ADU/JADU in conjunction with a single-family residence on the project site would be consistent with the certified LUP². 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

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

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

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

In response to the new state ADU laws, the applicant has proposed to incorporate an attached 502 square foot ADU located on the lowest 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.

Although the Commission has previously approved similar projects that have relied on ADUs/JADUs as adequate mitigation for housing density reduction, this often was due to the fact that the subject multi-family structure was non-conforming as to 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 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

³ 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, the City adopted a new ADU ordinance consistent with the state ADU.

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 502 sq. ft. 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 this lot to a single-family residence, 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. In addition, the proposed 502 sq. ft. ADU is bigger in size than one of the existing duplex units, which is about 487.5 sq. ft. ([Exhibit 3](#)).

Therefore, while the project may contribute somewhat to the cumulative loss of housing density in Hermosa, construction of a single-family residence with an ADU, 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 1921. Although the applicant has not provided information indicating that the duplex is uninhabitable, the 99-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, any redevelopment on this site would eventually result in the loss of a residential unit. In this case, the proposed 502 sq. ft. ADU is a feasible mitigation option to offset the loss of one residential unit. 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 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 ADU design resembles a studio apartment and can be a reasonable accommodation for an individual or a couple.

Thus, recognizing that ADUs are not tantamount to a full residential unit and may not provide the same benefits of a full residential unit in terms of maintaining housing density consistent with Chapter 3 policies, the Commission nevertheless approves the proposed project with an attached ADU because there are no other options available under the certified LUP for maintaining two units on-site. In this case, the development of a single-family residence with an ADU is a reasonable compromise approach to address the proposed loss of one residential unit that would result from redeveloping the project site. In order to ensure that the proposed ADU is not incorporated into the primary unit or used as a non-residential use in the future, **Special Condition 1** imposes the retention of the ADU as a separate residence for the life of the development.

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 30252 states, in part::

“The location and amount of new development should maintain and enhance public access to the coast by...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...”

Hermosa Beach certified Land Use Plan Section III (A) includes a statement of philosophy:

“To preserve and increase where feasible, residential, commercial, and general public parking within the Coastal Zone.”

Hermosa Beach certified Land Use Plan Section III (C) 1 states, in part:

“Policy: That the City should not allow the elimination of existing on-street parking or off-street parking spaces within the coastal zone. Future residential and commercial construction should provide the actual parking necessary to meet the demand generated...”

The subject site is located approximately 900 ft. inland of the public beach, in a built-out residential neighborhood in Hermosa Beach ([Exhibit 1](#)). The project includes a two-car garage consistent with the City’s parking requirement, plus one guest parking space in the driveway. The parking spaces would be accessed from Manhattan Avenue, and the project does not propose any curb cuts, so the project would not adversely impact on-street parking spaces. The proposed project also adheres to the height and setback requirements set forth in the certified LUP.

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.

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. The Commission imposes **Special Condition 2**, which ensures that the project conforms to the drainage and run-off control plan received on April 20, 2020. The plan includes a drainage system to manage and increase on-site percolation of runoff, including gutters, downspouts, trench drain, catch basins, and sump pump basins, which are directed to the public right-of way and storm drain.

The applicant has submitted a landscaping plan that consists of non-invasive, drought tolerant vegetation. While the proposed landscaping consists of non-invasive and drought tolerant plants, future landscaping may not consist of such plants. For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). In

order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition 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. 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.

G. California Environmental Quality Act

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

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

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

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