

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal No.: A-5-NPB-20-0068

Applicant: Jim Collins

Agent: William Guidero

Local Government: City of Newport Beach

Local Decision: Approval with conditions

Appellants: Coastal Commissioners Dr. Caryl Hart and Mike Wilson

Project Location: 413 and 413½ Edgewater Place, Newport Beach, Orange County (APN 04811104)

Project Description: Appeal of local CDP No. CD2020-130 for the demolition of an approx. 1,700 sq. ft. duplex and construction of a 2,591 sq. ft. single family home, 475 sq. ft. two-car garage, hardscape, patios, site walls, drainage devices, and landscaping.

Staff Recommendation: Determine that a substantial issue exists

IMPORTANT HEARING PROCEDURE NOTE: The Commission will not take public testimony during the substantial issue phase of the appeal hearing unless at least three Commissioners request it. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will be scheduled for a future Commission meeting, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The City-approved development, via local CDP No. CD2020-130, is the demolition of an approximately 1,700 sq. ft. duplex and construction of a 2,591 sq. ft. single-family home with a 475 sq. ft. two-car garage. The site is a bayfront lot on the Balboa Peninsula. The parcel is designated Two-Unit Residential (RT-E) in the certified Coastal Land Use Plan (LUP), and is zoned Two-Unit Residential (R-2) in the certified Implementation Plan (IP). Coastal Land Use Plan Table 2.1.1-1 states: “The RT category applies to a range of two-family residential dwelling units such as duplexes and townhomes.”

The appellants contend that the proposal to demolish two housing units and construct one housing unit is inconsistent with the certified Local Coastal Program (LCP) for Newport Beach, which designates the site for two-unit residential development. Moreover, the appellants argue that City’s approval would set a negative precedent for future interpretation of its LCP, which would result in a cumulative reduction in housing density in areas that have been planned to more support housing pursuant to the LCP.

The City did not make specific findings related to the LCP’s housing density criteria or policies, other than that the project is consistent with the existing neighborhood pattern of development. However, the City did find that the project is exempt from State laws including SB330 (Housing Crisis Act of 2019) requiring preservation of housing units: “A letter from the California Department of Housing and Community Development dated July 31, 2020, clarified to the City that single family developments do not meet the definition of ‘housing development’ as described in Government Code Section 66300, subdivision (a)(6).”¹ This conclusion is not supported by a plain reading of the law and is inconsistent with the intent of the law, which is to preserve housing units.

The scope of the proposed development (demolition of a duplex and construction of a single-family home), is relatively small when considered in the broader context of coastal development. The proposed development is theoretically the minimum reduction in density possible and previous projects that resulted in a loss of one housing unit have been approved by the City of Newport Beach. However, the cumulative effect of such projects, which demolish multi-unit residential structures and replace single family homes, constitutes an adverse impact on housing supply in the City’s coastal zone and will change the character of the community, inconsistent with the LCP. If the City continues to approve CDPs for projects that are not consistent with the land use and zoning designations, and continues to exempt these types of projects from review under SB330, which was passed by the State legislature in order to prevent a further reduction in housing, there will be a cumulative adverse impact that is more substantial than the impact of this project.

The City’s findings did not analyze either the specific impact of the proposed development on density within the subject land use district and zoning area – or the cumulative impact of the City’s actions to approve similar projects which reduce housing density. The City recently submitted (and subsequently withdrew) an LCP Amendment request to the

¹ City of Newport Beach Zoning Administrator Staff Report for Coastal Development Permit No. CD2020-130 (October 15, 2020), pg. 2.

Commission that would have allowed a transfer of development rights within and outside of the coastal zone, which would have further changed the implementation of its land use districts and zoning standards. Also, the City has appealed to reduce its Regional Housing Needs Assessment (RHNA) allocation of 4,834 housing units which it must plan for in the next eight years, citing constraints including low density in the coastal zone, which is trending downward. By approving this project and others like it, the City is contributing to a cumulative reduction in housing density in areas of the coastal zone which have been planned to support greater housing density pursuant to the LCP. This is the opposite of the intent of State laws including SB330 and is in conflict with the requirement to plan for increased housing development through the pending RHNA cycle.

Therefore, staff recommends that the Commission **determine that a substantial issue exists** with respect to the grounds on which Appeal No. A-5-NPB-20-0068 has been filed for the following reasons: the City's action to approve the permit is not consistent with the designated land uses of the LCP, is not adequately supported by the findings or documents in the record, and would contribute to a cumulative adverse impact to the City's housing supply and community character that would be inconsistent with the LCP.

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APPENDICES

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Appeal](#)

[Exhibit 3 – Zoning Administrator Staff Report and Resolution for Local CDP CD2020-130](#)

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-NPB-20-0068 raises NO SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in the Commission proceeding to conduct a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-5-NPB-20-0068 presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

The appellants broadly contend that the proposed development would reduce housing density in an area that can support housing density. Two housing units exist on the site and two housing units may be redeveloped on the site pursuant to both standards of the certified LCP. The proposal to demolish two housing units and construct one housing unit is inconsistent with the LCP. More specifically, the appellants contend that the City's approval does not comply with the following standards of the certified LCP: Coastal Land Use Plan Table 2.1.1-1; Coastal Land Use Plan Policy 2.1.10-1; Coastal Land Use Plan Section 2.2.1-1; and Coastal Land Use Plan Section 2.7-2.

The appellants contend that the City did not make specific findings related to the LCP's housing density criteria or policies, other than stating that the project is consistent with the existing neighborhood pattern of development. The appellants contend that the City's action would set a precedent for future City actions that will result in a cumulative loss of housing density in areas which have been planned to support housing pursuant to the LCP. The appeal is included as [Exhibit 2](#).

III. LOCAL GOVERNMENT ACTION

On October 15, 2020 the City of Newport Beach Zoning Administrator held a public hearing on a local coastal development permit application for the proposed development. One member of the public submitted a written comment that the proposed three-story home was out of character with the pattern of development in the neighborhood, which is mostly two-story residential structures. At the end of the public hearing, the Zoning Administrator approved Local CDP No. CD2020-130 with special conditions and adopted Resolution No. ZA-2020-068 ([Exhibit 3](#)) in support of the approval. The City also adopted a Categorical Exemption from CEQA (Class 3: New Construction or Conversion of Small

Structures). Within the Coastal Development Permit findings, the City stated: “Recent changes to State law temporarily prohibiting reduction of residential density under SB330 do not apply in this case.”

The Coastal Commission’s South Coast District Office received a Notice of Final Action on November 9, 2020. The Commission issued a Notification of Appeal Period on November 10, 2020. Within the 10 working-day appeal period, on November 20, 2020 an appeal was filed by Coastal Commissioner Mike Wilson, and on November 21, 2020 an appeal was filed by Coastal Commissioner Dr. Caryl Hart. The Commission notified the City and the applicant of the appeal in a letter dated November 24, 2020.

IV. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within appealable areas, such as between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a “major public works project” or a “major energy facility” [Coastal Act Section 30603(a)(5)].

The City of Newport Beach Local Coastal Program was certified in 2017. The City’s LCP is comprised of the coastal Land Use Plan (LUP) and the Implementation Plan (IP), which is Title 21 of the City’s Municipal Code. The standard of review for this appeal is the City’s certified LCP and the public access and recreation policies of the Coastal Act. Section 30603(a)(1) of the Coastal Act identifies the project site as being in an appealable area by virtue of its location between the sea and the first public road paralleling the sea.

Section 30603 of the Coastal Act states, in part:

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

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

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

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a ten working-day appeal period begins during which any aggrieved person, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § § 30603, 30625.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the action of the local government stands.

Alternatively, if the Commission finds that a substantial issue does exist with respect to the conformity of the action of the local government with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the Commission takes jurisdiction over the coastal development permit application and typically continues the public hearing to a later date in order to review the coastal development permit application as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find "no substantial issue," it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that an approved application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the

Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds asserted for the appeal raise no substantial issue.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The City-approved development is demolition of an approximately 1,700 sq. ft. duplex and construction of a 2,591 sq. ft. single-family home with 475 sq. ft. two-car garage. The proposed development also includes hardscape, patios, site walls, drainage devices, and landscaping.

The site is a bayfront lot on the Balboa Peninsula, protected from the bay by a City-owned bulkhead, which reaches a height of approximately 8.6 feet NAVD88. In spite of the bulkhead, the site may be vulnerable to coastal hazards such as flooding within the expected life of the project. No changes are proposed to the bulkhead. There is a private dock attached to the bulkhead. No changes are proposed to the dock. There is also a public walkway and a public beach between the private property and the bay. The bay is used for recreational boating, kayaking, paddle-boarding, and swimming.

The parcel is designated Two-Unit Residential (RT-E) in the certified coastal Land Use Plan (LUP), and is zoned Two-Unit Residential (R-2) in the certified Implementation Plan (IP). Coastal Land Use Plan Table 2.1.1-1 states: “The RT category applies to a range of two-family residential dwelling units such as duplexes and townhomes.”

B. LOCAL COASTAL PROGRAM CERTIFICATION

The City of Newport Beach Local Coastal Program (LCP) was certified on January 30, 2017. The City’s LCP is comprised of a Land Use Plan (LUP) and an Implementation Plan (IP). There is one area of deferred certification in the City (Banning Ranch). The project site is located within the City of Newport Beach’s certified LCP jurisdiction and is subject to the policies of the certified LCP.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

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

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

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

The Commission may, but need not, assign a particular weight to a factor.

D. SUBSTANTIAL ISSUE ANALYSIS

The appellants contend that the proposal to demolish two housing units and construct one housing unit is inconsistent with the certified Local Coastal Program (LCP) for Newport Beach, which designates the site for two-unit residential development. The appellants cite the following LCP provisions (appellants' citations/assertions indented, analysis in-line):

The lot where development is proposed is designated R-2 (Two Unit Residential) in the zoning code/Implementation Plan. The lot is designated RT-E 30.0 – 39.9 DU/AC (Two Unit Residential) in the Coastal Land Use Plan.

RT-E is the second highest density of any category within the Newport Beach Land Use Plan (30.0-39.9 dwelling units/acre). It is applied in areas within the coastal zone where duplexes and mixed-use structures are developed on small lots. The subject lot is typical of that development character, with a duplex on just 3,205 square feet of land.

Coastal Land Use Plan Table 2.1.1-1 states: "The RT category applies to a range of two-family residential dwelling units such as duplexes and townhomes."

Coastal Land Use Plan Policy 2.1.10-1 states: "Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations."

The Land Use Plan establishes density ranges for areas within the coastal zone and identifies land uses that would fall within that range, while the Implementation Plan essentially treats density as maximum development potential on a single site. Notably, the Land Use Plan policy does not reference single family homes as a use within the RT category, as detailed in Coastal Land Use Table 2.1.1-1. Single family homes are not consistent with the designation in the Coastal Land Use Plan Map (as required by Coastal Land Use Plan Policy 2.1.10-1). However, for the proposed development and in past actions, the City interprets single family homes to be an allowable use within multi-family zones based on language in the zoning code/Implementation Plan which suggests that any

residential land use is allowable if it is less dense than the maximum applied to a given site.

	Site designation	Code/Abbreviation	Meaning
LUP	Two Unit Residential	RT-E 30.0-39.9 DU/AC	Applies to a range of two-family residential dwelling units such as duplexes and townhomes
IP	Two Unit Residential	R-2	Establishes maximum density for the site

Coastal Land Use Plan Section 2.2.1-1 states: “Continue to allow redevelopment and infill development within and adjacent to the existing developed areas in the coastal zone subject to the density and intensity limits and resource protection policies of the Coastal Land Use Plan.”

In this case, the City-approved CDP would allow redevelopment within an existing developed area of the coastal zone below the density limits. (Developing a single-family home on the site would result in an extrapolated density on the site of approximately 14 units per acre in an area designated for 30-39 units per acre.) As conditioned, the development would not adversely impact resources like Newport Bay, the public beach, or terrestrial habitat; however, the project would not provide the housing density designated by the Land Use Plan, or accommodate denser housing development in a specific area where it has been planned to be accommodated. The intent of Coastal Land Use Plan Section 2.2.1-1 (which implements Coastal Act Section 30250; “Location; existing developed area”) is both to protect coastal resources from impacts associated with overdevelopment, and to implement denser development in specific areas where it has been planned to be accommodated. In planning the LCP, the City and the Commission designated the “Two-Unit” land use and zoning code category for areas where higher density has existed historically and where it is planned to exist as redevelopment takes place. The proposed project would comply with a literal interpretation of the policy but it would not be consistent with the intent of the policy.

Coastal Land Use Plan Section 2.7-2 states: “Continue the administration of provisions of State law relative to the demolition, conversion and construction of low and moderate-income dwelling units within the coastal zone.”

The City did not make findings regarding the affordability of the two units proposed to be demolished or the income of the previous or existing tenants, and there is no information to this effect in the administrative record. The City did not make findings regarding the proposed development’s consistency with the Mello Act, which requires local governments to protect, and in some circumstances, replace, affordable housing in the coastal zone. The Commission does not regulate the Mello Act, but the City’s apparent lack of review is inconsistent with the LCP policy. In fact, the two units may not be affordable to those of low and moderate incomes because it is on a bayfront lot; however, the units are old and they are small, which tend to be characteristic of affordable housing stock.

The City did make findings related to the general loss of housing units caused by the project, but determined that the project is exempt from State laws including SB330 (Housing Crisis Act of 2019) requiring preservation of housing units: "A letter from the California Department of Housing and Community Development dated July 31, 2020, clarified to the City that single family developments do not meet the definition of 'housing development' as described in Government Code Section 66300, subdivision (a)(6)."

This finding is not supported by a common sense reading of the law and is inconsistent with the intent of the law, which is to preserve housing units. Section 65589.5.(a)(2)(L) states: "It is the policy of the State that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." The City's interpretation appears to be based on a pluralization of the phrase "housing unit[s]" taken out of context from another section of the Government Code. It applies the code to mean that single-family homes are not "unit[s]" and are thus exempt from the law. Although the Commission is not required to implement the Housing Crisis Act of 2019, and that law is not part of the standard of review, it is relevant and supports the appellants' contentions that a substantial issue exists with the way the City interprets its LCP housing policies in a manner inconsistent with their intended effect. Should the Commission find that a substantial issue exists, the intended interpretation of the LCP housing policies may be may further reviewed and clarified in a de novo hearing.

While it is not clear that the existing development (two units) supports low or moderate-income housing, that is because the City did not make any findings on that point or enter any evidence into the record. The City's findings regarding the Housing Crisis Act of 2019 are not based on a common sense reading of the law and are inconsistent with the intent of the law. Setting aside potential development outcomes of various State laws, which may or may not have required changes to the proposed development, through its review of the CDP application under the LCP, the City failed to implement Coastal Land Use Plan Section 2.7-2 because it did not collect any evidence or make any findings regarding the affordability of the existing duplex.

The appellants argue that the City's approval would set a negative precedent for future interpretation of its LCP, which would result in a cumulative reduction in housing density in areas which have been planned to support housing pursuant to the LCP. The City's findings did not analyze either the specific impact of the proposed development on density within its designated land use district and zoning area – or the cumulative impact of the City's actions to approve similar projects which reduce housing density. The City recently submitted (and subsequently withdrew) an LCP Amendment request to the Commission that would have allowed a transfer of development rights within and outside of the coastal zone, which would have further changed the implementation of its land use districts and zoning standards. Also, the City has appealed to reduce its Regional Housing Needs Assessment (RHNA) allocation of 4,834 housing units which it must plan for in the next eight years, citing constraints including low density in the coastal zone, which is trending downward. By approving this project and others like it, the City is contributing to a cumulative reduction in housing density in areas of the coastal zone that have been planned to support greater housing density pursuant to the LCP. The cumulative effect of projects that demolish multi-unit residential structures and build single family homes will

have an adverse impact on housing supply in the City's coastal zone and will change the character of the community, inconsistent with the LCP. This is the opposite of the intent of State laws including SB330 and in conflict with the requirement to plan for increased housing development through the pending RHNA cycle.

Substantial Issue Factors

The Commission typically applies five factors in making a determination whether an appeal raises a substantial issue pursuant to Coastal Act Section 30625(b)(2), as designated by Section 13115(c) of the Commission regulations.

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

The City's decision to approve a permit for the proposed development would result in a reduction in housing density in an area which has been planned to support greater housing density pursuant to the LCP. The City did not make specific findings related to the LCP's housing density criteria or policies, other than that the project is consistent with the existing neighborhood pattern of development. There is no evidence in the record that would indicate the City analyzed the cumulative loss of housing that has resulted from recent decisions similar to the decision at issue in the appeal. Moreover, the City did not make findings related to the potential affordability of the two housing units proposed to be demolished and there is no evidence in the record to indicate that the City completed its obligation to implement other State housing laws, which is required pursuant to an LCP policy.

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

The scope of the proposed development (demolition of a duplex and construction of a single-family home), is relatively small when considered in the broader context of coastal development. The proposed development is theoretically the minimum reduction in density possible and previous projects that resulted in a loss of one housing unit have been approved by the City of Newport Beach. However, the cumulative effect of such projects that demolish multi-unit residential structures and build single family homes will have an adverse impact on housing supply in the City's coastal zone and will change the character of the community, inconsistent with the LCP. If the City continues to approve CDPs for projects that are not consistent with the land use and zoning designations, and continues to exempt these types of projects from review under SB330, which was passed by the State legislature in order to prevent a further reduction in housing, there will be a cumulative adverse impact that is more substantial than this individual project.

3. The significance of the coastal resources affected by the decision.

As conditioned, the project approved by the City would not directly impact coastal resources. The appellants' main contention concerns a loss of housing density. This is a valid concern given the current statewide housing crisis, which is most pronounced in coastal, jobs-rich areas like Newport Beach. The Coastal Act does not explicitly identify housing as a coastal resource, and residential uses are not considered coastal dependent or priority uses in the coastal zone. Nonetheless, the Coastal Act and the LCP contain provisions to ensure that new development is located in existing developed areas, is designed to reduced energy

consumption and vehicle miles travelled, and avoids impacts to public access and recreation, visual resources, and other coastal resources. These policies support the co-location of housing in existing developed areas such as the project site, so long as the development does not impact coastal resources. The City's decision to approve development that reduces housing density in an area which has been designated for multi-unit housing may have the effect of causing other areas of the city and the state to be more densely developed, impacting coastal resources in those areas. One such area that has experienced development pressure is Banning Ranch, where the Commission previously denied a housing and commercial development proposal because of identified impacts on coastal resources. Another area of the city currently designated low density because of coastal resource concerns is Newport Back Bay. By reducing density in areas where it has been planned, the City's decision on the subject permit, analyzed cumulatively with previous decisions, has the potential to adversely impact coastal resources in other areas of the city.

4. The precedential value of the local government's decision for future interpretations of its LCP.

The City's approval of development that is inconsistent with the Coastal Land Use Plan table and standards (construction of a single-family home in the Two Unit land use and zoning district) has precedential value because it may encourage other property owners to seek out and demolish older multiple unit buildings in multi-unit zones in order to build new single-family homes, which would cumulatively impact the ability of the City to implement its multi-unit land use designations. The City's decision and the appellants' contention highlights an inconsistency in the structuring of the City's coastal zoning districts with regard to implementing the land use designations. Essentially, the Land Use Plan map and policies suggests the area should support higher density residential development, and the Implementation Plan allows denser development, but the Implementation Plan also allows single family homes to be developed in almost all land use designations. The City's fundamental disregard for the LCP's land use designation, and argument that the LCP only sets a density cap and not a density floor, is a substantial issue and would set precedent for future interpretation of the LCP. In light of this inconsistency, and the potential precedential value of approving low-density development in high-density zones, the precedential value of the local government's decision is high. In cases where there is conflict between the Land Use Plan and the Implementation Plan, the Land Use Plan prevails. If the City continues to apply its interpretation of the Implementation Plan rather than the written policies of the Land Use Plan, it will set a precedent and result in a cumulative loss of housing in areas which have been planned to support denser housing development pursuant to the LCP.

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

As stated above, the primary topic of concern raised by the appellant is the interpretation of the City's development standards, which is a local issue. However, the loss of housing, and general reluctance of local governments in the coastal zone to preserve housing or incentivize the development of more housing, is a statewide crisis. As noted in the previous factor, by reducing density in areas where it has been planned to be developed, the City's decision on the subject permit, analyzed cumulatively with previous decisions, has the

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potential to adversely impact coastal resources in other areas of the city and the state. Moreover, the City's failure to apply other State laws related to housing raises issues of statewide significance, because if this decision is allowed to stand, then other local governments may cite it when they wish to approve projects that reduce housing density inconsistent with their own LCPs and State law.

Conclusion

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

Appendix A – Substantive File Documents

City of Newport Beach certified Local Coastal Program

City of Newport Beach LCP Amendment Request No. LCP-5-NPB-19-0151-2 (Transfer of Development Rights)