

**CALIFORNIA COASTAL COMMISSION**

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# W17b

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-21-0022

**Applicant:** Gary Lane

**Agent:** Maria Islas

**Location:** 413 25<sup>th</sup> Street, Hermosa Beach, Los Angeles County  
(APN: 4182-028-009)

**Project Description:** Demolish existing two-story, 1,494 sq. ft. duplex with attached garage. Construct a new three-story, 25-ft. high, 3,828 sq. ft. single family residence with a roof deck, attached 511 sq. ft. accessory dwelling unit (ADU), attached 2-car garage and two guest spaces adjacent to the garage.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish an existing two-story, 25-ft. high, 1,494 sq. ft. duplex, and construct a three-story, 30-ft. high, 3,828 sq. ft. single-family residence with a 501 sq. ft. roof deck, a 511 sq. ft. Accessory Dwelling Unit (ADU), an attached two-car garage, and two uncovered guest parking spaces on a 3,699 sq. ft. lot. The project includes 1,256 cu. yd. of grading (1,246 cu. yd. of cut and 10 cu. yd. of fill) that would be transported to a site outside of the coastal zone. Landscaping for the project would consist only of drought-tolerant, low-water use, native, non-invasive plantings.

The project site is located in an urbanized neighborhood approximately 0.2 mi. inland from the beach, and it is not between the first public road and the sea. The lot is currently developed with a two-story duplex that was constructed in 1923. The duplex contains a 1,000 sq. ft. unit and a 494 sq. ft. unit. Public coastal access is available from the project site via 25th Street. 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. Pursuant to the LUP, the Low Density, or R-1, zone allows single-family residences to be developed. Thus, the construction of a single-family residence is an allowable use in the R-1 zone.

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

The project, which proposes to replace a two-unit residential structure with a single-family residence with an ADU raises issues of consistency with Coastal Act Sections 30250, 30251, and 30253. 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.

The current development of the site is nonconforming with the Low Density LUP designation in that two residential units are present on a site that, under the LUP, should only accommodate one residential unit. Although the existing duplex is not consistent with the certified LUP requirements for development within the Low Density zone, the proposed single-family residence would be consistent with the certified LUP's Low Density designation and would bring the site into greater conformance with the certified LUP policies.

In this case, the applicant has proposed to mitigate the proposed reduction of one residential unit by constructing an attached 511 sq. ft. ADU located on the ground level of the residence that features a separate exterior entry, a kitchen, a living room area, one full bedroom, and one full bathroom ([Exhibit 3](#)). The ADU would offer natural light and ventilation through the use of several windows placed around the ADU to circulate sunlight and fresh air throughout the unit. The proposed ADU is consistent with recent updates to statewide ADU laws that took effect January 1, 2020, as well as the City's uncertified ADU ordinance adopted on January 14, 2020 (Urgency Ordinance No.20-1403-U).

The Commission has raised concern as to whether density will actually be maintained in a manner consistent with Coastal Act development policies through the use of ADUs.

Although ADUs are typically designed to function separately from the associated single-family residence, an ADU is inherently dependent on the single-family residence to serve as a housing unit. ADUs share utility lines (power, water) with the associated single-family residence and, in most situations, cannot be sold separately from the primary residence. This differs from a duplex, where the units can have separate utility connections and could be sold independently from one another, if converted to a condominium. In addition, it is more difficult to enforce the continuous provision of an ADU as a separate unit as compared to a duplex. However, in this case, the ADU has been designed to function as a one-bedroom unit and can reasonably be rented out to an individual or a couple. Moreover, at 511 sq. ft., the proposed ADU would be larger than the smaller 474 sq. ft. duplex unit that currently exists onsite. **Special Condition 1** requires the applicant to retain the single-family home and the attached ADU as separate units and prohibits ingress or egress (doors) between the ADU and the primary residence. **Special Condition 2** requires the applicant to submit a yearly monitoring plan to track the advertising of the ADU and the revenue generated by renting out the ADU. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, **Special Condition 5** requires that the property owners record a deed restriction against the property, referencing all of the Special Conditions of this permit.

Therefore, Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-21-0022 with five special conditions requiring the applicant to: 1) maintain the single-family residence and the ADU as two separate units; 2) submit a yearly monitoring plan that details the advertising of and revenue generated by the 511 sq. ft. ADU; 3) adhere to the proposed landscaping and drainage plans to maintain water quality onsite; 4) adhere to construction best practices in order to prevent polluted runoff from entering coastal waters; and 5) record a deed restriction to memorialize all of the special conditions. The motion can be found on Page 5 of the staff report.

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

[Exhibit 2- Project Plans](#)

[Exhibit 3- ADU Site Plan](#)

[Exhibit 4 – Community Character Analysis](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit No. 5-21-0022 pursuant to the staff recommendation.

Staff recommends a **YES** vote. 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 the Commissioners present.

### Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 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 a Single-Family Residence and Accessory Dwelling Unit On-Site.** The development approved by Coastal Development Permit No. 5-21-0022 is for construction of a single-family residence with a 511 sq. ft. accessory dwelling unit (ADU). The applicants 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. Ingress and egress (doors) between the ADU and the primary residence are prohibited.
2. **Annual ADU Monitoring.** Not more than one year after construction of the single-family residence and 511 sq. ft. ADU, the permittee shall provide a report that details the rental advertising for the 511 sq. ft. ADU and the revenue generated from the ADU for review and monitoring by the Commission's Executive Director. This report shall be submitted once annually (no later than December 31st of each year) for the life of the development.
3. **Water Quality, Drainage and Landscaping Plans.**
  - A. The applicants shall undertake development in accordance with the drainage and run-off control plan received by Commission staff on January 11, 2021, 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 applicants 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.
4. **Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

- A.** No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B.** No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C.** Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D.** Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E.** All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F.** The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G.** Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H.** All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- I.** Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- J.** The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K.** Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- L.** Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related

materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

**M.** All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

- 5. 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 an existing two-story, 25-ft. high, 1,494 sq. ft. duplex, and construct a three-story, 30-ft. high, 3,828 sq. ft. single-family residence with a 501 sq. ft. roof deck, a 511 sq. ft. ADU, an attached two-car garage, and two uncovered guest parking spaces on a 3,699 sq. ft. lot. The project includes 1,256 cu. yd. of grading (1,246 cu. yd. of cut and 10 cu. yd. of fill) that would be transported to a site outside of the coastal zone. Landscaping for the project would consist only of drought-tolerant, low-water use, native, and non-invasive plantings ([Exhibit 2](#)).

The project site is located approximately 0.2 mi. inland from the beach and inland of the first public road and the sea in an urbanized neighborhood. The lot is developed with a two-story duplex that was constructed in 1923, before passage of the Coastal Act. The duplex contains a 1,000 sq. ft. unit and a 494 sq. ft. unit. Public coastal access is available adjacent to the project site via 25<sup>th</sup> Street ([Exhibit 1](#)). The project site is designated in the certified LUP as a Low Density Residential lot, which corresponds to the R-1 zone in the City's uncertified zoning code. Pursuant to the LUP, the Low Density, or R-1, zone allows single-family residences to be developed. Thus, the construction of a single-family residence is an allowable use in the R-1 zone.

On August 11, 2021, the Commission considered the project on the Consent Calendar. The project at the time included a 659 sq. ft. ADU that was located on the basement

level of the residence. The Commission raised concern that the ADU as originally designed may not have adequate access to natural air and light and, therefore, would not likely be rented out as a separate unit. The Commission voted to pull the item off the Consent Calendar to be considered on the Regular Calendar at a future hearing. Following the August hearing, the applicant modified the project description to include an above-grade ADU unit at the rear end of the proposed residence.

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:

(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:

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:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or

surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

(d) Minimize energy consumption and vehicle miles traveled...

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

(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 J.)

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 to minimize impacts on coastal resources and discourage 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 at this time, Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities.

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. 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, 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.<sup>1</sup>

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’s Low Density designation corresponds to the R-1 zone in the City’s uncertified zoning code. The certified LUP includes the following development standards regarding the minimum lot area per dwelling unit for residential parcels based on the zoning designation:

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<sup>1</sup> Refer to the staff report for CDP Application No. 5-20-0530 (Stabler and English)

<b>Zone</b>	<b>Uses</b>	<b>Lot Area per Dwelling Unit</b>
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 certified LUP defines low-density development as consisting primarily of single-family residences. The current development of the site is nonconforming with the Low Density LUP designation in that two residential units are present on a site that should, under the LUP, only accommodate one residential unit. The lot is 3,699 sq. ft.; and the proposed single-family residence would be consistent with the certified LUP's Low Density designation and would bring the site into greater conformance with the certified LUP policies. Although the Coastal Act does not authorize the Commission to regulate or require affordable housing at this time, and while not the standard of review, Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities.

In previous projects, the Commission has encouraged the development of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) to mitigate for lost residential units. In the Low-Density residential, or R-1 zone, the development of an ADU in conjunction with a single-family residence on the project site would be consistent with the certified LUP.<sup>2</sup> In addition, an ADU on the project site appears consistent with recent updates to statewide ADU laws that took effect January 1, 2020,<sup>3</sup> as well as the City's uncertified ADU ordinance adopted on January 14, 2020 (Urgency

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

<sup>3</sup> The Housing Crisis Act 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 subject project was submitted to the City after January 1, 2020.

Ordinance No.20-1403-U).<sup>4</sup> However, the Commission has raised a concern as to whether density will actually be maintained in a manner consistent with Coastal Act development policies through the use of ADUs. Although ADUs are typically designed to function separately from the associated single-family residence, an ADU is inherently dependent on the single-family residence to serve as a housing unit. ADUs share utility lines (power, water) with the associated single-family residence and, in most situations, cannot be sold separately from the primary residence. This differs from a duplex, where the units can have separate utility connections and could be sold independently from one another, if converted to condominiums. In addition, it is more difficult to enforce the continuous provision of an ADU as a separate unit as compared to a duplex. Further, due to imposed size limitations or planned size, ADUs are more likely to be left vacant or used by the residents of the primary single-family residence, rather than rented out. Although the Commission does not have the authority at this time to require that an ADU be rented out, the Commission can encourage the creation of ADUs that are desirable as rental units as opposed to spaces that would merely be used as de facto guest space or a similar use to serve the primary single-family unit.

On September 16, 2021, Governor Newsom signed two additional housing laws, which are set to take effect on January 1, 2022. Senate Bill 8 (SB 8) extends the expiration of the Housing Crisis Act from January 1, 2025 to January 1, 2030 and clarifies that the definition of “housing development project” in the Housing Crisis Act was intended to include development of single-family residences. Senate Bill 9 (SB 9) requires cities and counties to ministerially approve up to two residential units (i.e., a duplex) on a single-family residential lot except in specific enumerated circumstances. In addition, SB 9 prohibits local governments from imposing objective zoning standards that would have the effect of physically precluding the construction of up to two units. These laws are intended to encourage new residential units in areas that have historically limited the number of residential units that can be developed. Both of these laws have, what is called, a savings clause as to the Coastal Act, so while local governments’ uncertified zoning codes would be subject to SB 9, these new housing laws do not override or supersede the provisions of the Coastal Act and certified Local Coastal Programs, except as to local hearing requirements for coastal development permit applications for projects subject to these laws.

The project site consists of a duplex that has been constructed on a lot designated as Low Density residential (or R-1 zoning) in the City’s certified LUP. Although SB 9 could allow a duplex on this residential lot, Appendix G of the certified LUP notes that R-1 lots (which correspond to the Low Density zone identified in the LUP) can only be developed

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<sup>4</sup> 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 applicants 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 2020 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.

with single-family residences, as explained in detail above. In addition, SB 9 does not require that duplexes be constructed, instead it prohibits local governments from denying duplexes if they are otherwise consistent with its provisions. SB 9 is not yet effective and the provisions of the LUP – which has been certified by the Commission – provide guidance to the Commission when evaluating this proposed development. The certified LUP provides that new development on Low Density designated lots should mostly be limited to single-family residences, depending on lot size. Therefore, for this site, the proposed single-family residence would be consistent with the provisions of the LUP.

In this case, the applicant has proposed to mitigate the proposed reduction of one residential unit by constructing an attached 511 sq. ft. ADU located on the ground level of the residence that features a separate exterior entry (pursuant to the State's ADU requirements), a kitchenette, a living room, one full bedroom, and one full bathroom ([Exhibit 3](#)). The ADU would offer natural light and ventilation through the use of several windows placed around the perimeter of the ADU to circulate sunlight and fresh air throughout the unit. The ADU has been designed to function as a one-bedroom unit and can reasonably be rented out to an individual or a couple. Moreover, at 511 sq. ft., the proposed ADU would be larger than the smaller 474 sq. ft. duplex unit that currently exists onsite. To ensure that the project is carried out as proposed, the Commission imposes **Special Conditions 1, 2 and 5**. **Special Condition 1** requires the applicant to retain the single-family home and the attached ADU as separate units and prohibits ingress or egress (doors) between the ADU and the primary residence. **Special Condition 2** requires the applicant to submit a yearly monitoring report to track the rental advertising of the ADU and the revenue generated from renting out the ADU. 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 5**, requiring that the property owners record a deed restriction against the property, referencing all of the Special Conditions of this permit.

### Community Character

In order to better understand the character of the neighborhood, Commission staff conducted a survey of residential properties surrounding the project site to identify single-family and multi-family residences. The survey area encompassed the lots bounded by 25<sup>th</sup> Street, Morningside Drive to the north, and Silverstrand Avenue to the south. Of the total of 23 lots that were included in the survey area, 14 lots (61%) featured single family residences and 9 (39%) lots featured duplexes. The residential structures ranged from 1,107 sq. ft. to 4,175 sq. ft. in size, with the average structure totaling approximately 2,331 sq. ft. ([Exhibit 4](#)).

Based upon the survey, the height, size, and design of the proposed single-family residence would be visually compatible with the character of the area. Moreover, a single-family residence with an ADU on a 3,699 sq. ft. R-1 zoned lot is consistent with the certified LUP's Low Density Designation, which allows for a maximum of one unit on this site (not precluding ADUs).

As mentioned above, the proposed single-family residence would contribute to the cumulative loss of housing density in Hermosa Beach by removing one existing duplex unit. However, in this case, the construction of a single-family residence with an ADU is a compromise approach to minimize cumulative loss of housing density while remaining consistent with the certified LUP and the Coastal Act.

As explained above, the Coastal Act encourages the concentration of development in already developed areas that can accommodate it (PRC 30250) and the minimization of vehicle miles traveled (PRC 30253(e)). The certified LUP (which is not the standard of review but provides guidance) does not preclude ADUs from being developed in conjunction with a new or existing single-family residence. The project will contribute somewhat to the cumulative loss of housing density in Hermosa, although the impact will be mitigated by the proposed ADU. The construction of a single-family residence with an ADU is a reasonable compromise approach in this case, given the local zoning requirements, to minimize cumulative loss of housing density while remaining consistent with the certified LUP and the Coastal Act.

### **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 approximately 0.2. inland from the beach, landward of the first public access road parallel to the sea. The four parking spaces proposed for the project are consistent with the parking standards specified within the certified LUP. The parking spaces would be accessed from the existing curb cut on 25<sup>th</sup> Street. The project would not increase the existing curb cut or create new curb cuts along 25<sup>th</sup> Street, so no existing public parking spaces will be lost. The proposed residence is consistent with

the setback requirements set forth in the certified LUP and does not encroach into any public rights-of-way or coastal access roads. In sum, the proposed development would not have any new adverse impacts on public access to the coast or to nearby recreational facilities.

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210, 30211, and 30212 of the Coastal Act.

## **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.

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. 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 of foraging avian and marine species' ability to see food in the

water column. To avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 4**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding untreated 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 also 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. To address 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. Rooftop and surface runoff will be directed by gravity to Ecorain tanks located in the planter at the front of the property. An infiltration pit will be constructed to collect sheet flow from the site. Any additional flow will be redirected by an overflow pipe to a sump pit and, eventually, the street, with two 3-in. diameter cast iron pipes. Gutters, downspouts and perforated pipes shall be inspected and cleaned prior to the start of the rainy season (November 1 to April 15). The Commission imposes **Special Condition 3** to ensure that the project conforms to the drainage and run-off control plan dated January 11, 2021.

The development, as proposed and conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, and the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230, 30231 and 30232 of the Coastal Act regarding the protection of water quality to maintain the biological productivity of coastal waters and to protect human health.

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

## **F. Local Coastal Program (LCP)**

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 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 LUP 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 the Commission’s administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (“CEQA”). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that 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).)

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect, individual or cumulative, that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Coastal Development Permit Application No. 5-21-0022 and associated file documents.