

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-21-0206

Applicant: Pam and Uwe Rockenfeller

Agent: Eric Buchanan

Location: 2962 Ocean Front Walk, Mission Beach, San Diego, San Diego County (APN 423-691-06)

Project Description: Demolition of an existing 3,734 sq. ft. duplex and construction of a new 2,774 sq. ft., 30 ft. tall, three-story single-family home and 215 sq. ft. junior accessory dwelling unit with attached two-car garage on a 2,720 sq. ft. lot

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The primary issues raised by this project relate to residential density and the protection of public access and public views. The subject property is located adjacent to and landward of Ocean Front Walk, a popular public boardwalk and visual corridor adjacent to the beach.

The proposed project would demolish an existing duplex and construct a single-family residence with a junior accessory dwelling unit, leading to a loss of one primary dwelling unit. The lot is legally entitled to a duplex under the City's certified LCP. Although the Commission has previously accepted ADUs as mitigation for the loss or primary units,

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 accessory dwelling units (ADUs). Although ADUs are typically designed as separate units from the associated single-family residence, an ADU is inherently dependent on the single-family residence to serve as a housing unit. ADUs usually share utility lines (power, water) with the associated single-family residence and, except in very limited situations, inapplicable here, cannot be sold separately from the primary residence. This differs from a duplex, where the units are independent of each other, typically have separate utility connections, and could be sold independently from one another if converted to a condominium. Further, due to their subordinate function, ADUs are more likely to be left vacant or used by the residents of the primary single-family residence, rather than rented out. If ADUs become a substitute for primary residential units but are unlikely to be used for housing, then the project, when viewed cumulatively with similar projects in Mission Beach, will not concentrate development in existing developed areas and instead will contribute to further urban sprawl, counter to Coastal Act policies designed to concentrate residential development to minimize impacts to coastal resources (sections 30250 and 30253). To address these impacts, **Special Condition #1** requires the submittal of revised final project plans redesigning the project as a new duplex (rather than a single-family residence and junior accessory dwelling unit) with units of substantially similar size. **Special Condition #2** requires the duplex to be maintained as two separate residential units.

The existing development includes a duplex with a yard that encroaches into the public right-of-way on Ocean Front Walk. The applicant has proposed to remove all encroaching structures. To ensure that the revised plans will do the same, **Special Condition #1** requires final plans that confirm that all development located outside the property line will be removed. While the proposed project will not block any public views to the beach, visual resources could be impacted if the required view corridors are blocked by landscaping as it grows in the future. To avoid impacts to view corridors, **Special Condition #3** requires submittal of final landscaping plans that limit landscaping in the public view corridors to a height of three feet and prohibit encroachments into the setbacks. In addition, the presence of construction workers and equipment in such a densely populated, popular beach area could impact public rights-of-way to and along the beach, especially during summer months when beach use is at its peak. **Special Condition #4** prohibits development activity during the busy summer months between Memorial Day Weekend and Labor Day in order to remove the potential of development activity impeding coastal access. **Special Condition #5** requires the property owner to submit a written agreement that acknowledges and accepts the construction timing limitations.

The Mission Beach neighborhood is low-lying area on a narrow peninsula situated between the Pacific Ocean to the west and Mission Bay to the east, which currently experiences periodic flooding that will likely increase with sea level rise. The project site is located along a public boardwalk and faces the beach. As a beachfront development, the proposed project could be subject to coastal hazards such as flooding as sea level rise increases. Although there is an existing seawall located seaward of the development that protects the public boardwalk on Ocean Front Walk, the subject

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project should not be designed to rely on the seawall. **Special Condition #6** requires the applicant to acknowledge the development is proposed in a site subject to coastal hazards and assume the risks of development. **Special Condition #7** requires the applicant to waive any right to construct a future shoreline protective device. **Special Condition #8** requires the applicant to notify all future occupants of the duplex of the acknowledgements, agreements, and provisions in Special Conditions #6 and #7. **Special Condition #9** requires the applicant to record a deed restriction against the property that imposes the conditions of the permit for the purpose of providing notice to future property owners.

Therefore, as conditioned, the project will be consistent with the Chapter 3 policies of the Coastal Act, and no impacts to coastal resources are anticipated. Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-21-0206, as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act.

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EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial Imagery](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Encroachments](#)

[Exhibit 5 – Community Character Analysis](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 6-21-0206 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of 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. Revised Final Plans

- a. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, revised final plans approved by the City of San Diego that are in substantial conformance with the plans prepared by Oasis Architecture & Design, Inc and received by the San Diego Coastal Commission office on July 1, 2021, except that they shall comply with the following:
 - i. The proposed structure shall contain two primary dwelling units of substantially similar sizes. The duplex shall comply with all requirements of the Mission Beach Planned District Ordinance.
 - ii. All development located outside the property line as generally depicted in Exhibit 4 shall be removed.
 - iii. Any public area exposed by removing the encroachments must either (1) be left as a dirt patch or (2) paved with concrete that matches the existing Ocean Front Walk right-of-way. No structures, landscaping, decorative concrete, etc. are permitted within the public right-of-way.
- b. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Retention of a Duplex On-Site.** The development approved by Coastal Development Permit No. 6-21-0206 is for construction of a duplex. The permittees shall maintain the duplex as two separate residential units. At no point during the life of this development may one unit be incorporated into the other or a unit converted to a non-residential use. Ingress and egress (doors) between the two units are prohibited.

3. Final Landscape/Yard Area Plans.

- a. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, revised final plans approved by the City of San Diego that are in substantial conformance with the plans prepared by Oasis Architecture & Design, Inc and received by the San Diego Coastal Commission office on July 1, 2021, and shall comply with the following:
 - i. A view corridor, ten feet wide, shall be preserved in the west yard area adjacent to Ocean Front Walk. All proposed landscaping in the west yard area shall be maintained at a height of three feet or lower (including raised planters) to preserve the views along Ocean Front Walk towards the

ocean.

- ii. No landscaping or hardscape shall be retained or erected within the Ocean Front Walk right-of-way. Trees may not overhang in a way that blocks public views.
- iii. All landscaping shall be drought tolerant, native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not to exceed three feet at maturity. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or 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 “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. If using potable water for irrigation, the project shall use water-conserving emitters (e.g. microspray) and drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.
- iv. Any fencing and walls, including glass walls, trellis walls, and retaining walls, in the western yard setback area along Ocean Front Walk shall not exceed a height of three feet above the existing grade or proposed grade, whichever is lower.
- v. Five years from the date of the issuance of the coastal development permit for the residential structure, the permittee shall submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified resource specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the Permittee shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

- b. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

4. **Timing of Development.** No construction shall take place for the project from Memorial Day Weekend to Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (e.g., no street closures or use of public parking as staging areas).
5. **Written Agreement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the property owner shall submit a written agreement, in a form and content acceptable to the Executive Director, that acknowledges and accepts the timing of development approved pursuant to Special Condition #4, and provides a weekly construction schedule to confirm that no construction will occur from Memorial Day Weekend to Labor Day.
6. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
7. **No Future Shoreline Protective Device.**
 - a. By acceptance of this Permit, the applicants agree, on behalf of themselves and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 6-21-0206 including, but not limited to, the residence and foundation in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
 - b. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if:
 - i. The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or

use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;

- ii. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
- iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
- iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

The applicant acknowledges that approval of CDP No. 6-21-0206 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachment onto public trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

8. **Occupant Notice.** The permittee shall provide notice to all future occupants of the duplex of the acknowledgements, agreements, and provisions specified in Special Conditions 6 and 7.
9. **Deed Restriction. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written 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 the 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 or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The proposed project is the demolition of a 3,734 sq. ft. duplex and construction of a new 2,774 sq. ft., 30 ft. tall, three-story single-family residence with a 402 sq. ft.

attached garage and 215 sq. ft. junior unit on a 2,720 sq. ft. lot at 2962 Ocean Front Walk in the Mission Beach community of the City of San Diego ([Exhibits 1 and 2](#)). Two off-street parking spaces and an electric vehicle charging station will be provided in the attached garage, and the junior unit will be located on the ground floor of the proposed structure ([Exhibit 3](#)). The site contains existing walls, landscaping, and hardscape in the public right-of-way between the property line and Ocean Front Walk ([Exhibit 4](#)). The applicant is proposing to remove all existing encroachments in the City's right-of-way.

The site is located on the east side of Ocean Front Walk, a public boardwalk on the beach and is within an existing residential area zoned Residential South (R-S) of the Mission Beach Planned District Ordinance (PDO). Under the PDO, this site is entitled to a maximum of two dwelling units.

The site is located within the original permitting jurisdiction of the Coastal Commission where Chapter 3 of the Coastal Act is the standard of review. The Mission Beach Planned District Ordinance, comprised of Article 13 of Chapter 15 of the San Diego Land Development Code, is used as guidance for review of the project.

B. Development/Community Character

Section 30250 of the Coastal Act states, in relevant 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...

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 relevant 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.

[...]

(c) Minimize energy consumption and vehicle miles traveled.

Section 1513.0302 of the Mission Beach PDO states:

Residential Subdistricts — Northern and Southern — Definition and Intent

(a) The Residential Subdistricts are designated R-N and R-S. The purpose of the Residential Subdistrict is to regulate the small-scale and low-profile developed area with a maximum residential density of approximately 36 dwelling units per net residential acre.

(b) It is the intent of these regulations to allow the improvement or development of the standard Mission Beach lots with little or no need for variances.

Section 1513.0303 of the Mission Beach PDO states, in relevant part:

Permitted Uses – Residential Subdistricts

No building or improvement or portion thereof shall be erected, constructed, converted, established, altered or enlarged, nor shall any lot or premises be used except for one or more of the following purposes:

(a) Primary Uses

(1) Single dwelling units.

(2) Duplexes (2 dwelling units in a single structure).

[...]

Section 1513.0304 of the Mission Beach PDO states:

Property Development Regulations – Residential Subdistricts

(a) Density Regulations

One dwelling unit shall be allowed per 1,200 square feet of lot area, except as follows:

(1) A single R-S lot of 2,000 to 2,400 square feet shall be entitled to a maximum of 2 dwelling units;

[...]

(3) Fractions of a dwelling unit shall not be rounded up when determining the total units permitted on a lot or lots.

The Mission Beach Precise Plan states in its Overall Goals on Page 13, in relevant part:

- The continuation of the existing medium-density character of Mission Beach, exemplified by the overall low profile and random mix of housing types and

styles.

[...]

- The promotion of a community balanced by housing types, dwelling unit sizes, a variety of individuals and family sizes, housing price, and racial and ethnic composition.

Additionally, Page 17 of the Mission Beach Precise Plan states in the “Goals” of the “Residential” section, in relevant part:

- The continuation of the existing medium-density character of Mission Beach exemplified by the overall low profile and random mix of housing types and styles.
- The establishment of an overall maximum density in Mission Beach in order to prevent overdevelopment.
- The permanent control of height and building bulk so that structures in Mission Beach will not have adverse affects on surrounding property, the beaches, and the community in general.

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.

The subject lot is 2,720 sq. ft. and zoned Residential South (R-S). Under Section 1513.0304(a) referenced above, the site does not fall under the standard density determination of one dwelling unit per 1,200 square feet because it is both in the R-S zone and is larger than 2,000 square feet. While the actual lot size is indeed larger than the 2,000 to 2,400 described in exception (1), the lot shall still only be entitled to a maximum of two dwelling units because fractions of a dwelling unit (i.e., excess square footage) shall not be rounded up when determining the total units permitted on the lot. Therefore, a maximum of two units can be found consistent with the maximum density allowed under the LCP. The surrounding neighborhood is a mix of single- and multiple-family residences ([Exhibits 2 and 5](#)). Maintaining two primary dwelling units on the site would be compatible with the goal of the Mission Beach Precise Plan to maintain a medium-density character with a mix of housing types.

On September 16, 2021, Governor Newsom signed Senate Bill 8 (SB 8), set to take effect on January 1, 2022. 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. The Housing Crisis Act prohibits a city or county from approving of a housing development project that would demolish residential dwelling units unless the project would create at least as many units as will be demolished (no net loss). The Housing Crisis Act does not modify the Coastal Act. The City of San Diego's LCP Amendment No. LCP-6-SAN-21-0005-5 proposes to add new dwelling unit protection regulations and other housing-related amendments to the City's certified IP in order to implement the Housing Crisis Act. The LCP amendment is currently scheduled for the December 2021 Commission hearing.

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 (e.g., CDP Nos. 6-19-0609/Lupo and 5-20-0650/Smith). 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 as separate units from the associated single-family residence, an ADU is, by its nature, accessory to the primary residence and is inherently dependent on the single-family residence to serve as a housing unit. ADUs usually share utility lines (power, water) with the associated single-family residence and, except in very limited situations, inapplicable here, cannot be sold separately from the primary residence. This differs from a duplex, where the units are independent of each other, typically have separate utility connections and could be sold independently from one another, if converted to condominiums. Further, due to their subordinate function, ADUs are more likely to be left vacant or used by the residents of the primary single-family residence, rather than rented out. As proposed, the project would result in a 2,774 sq. ft. primary residence and 215 sq. ft. junior unit (Exhibit 3). The owner could use the proposed junior unit as de facto guest space or similar use to serve the primary single-family unit, resulting in a loss of density at the site. If ADUs become a substitute for primary residential units but are unlikely to be used for housing, then the project, when viewed cumulatively with similar projects in Mission Beach, will not concentrate development in existing developed areas and instead will contribute to further urban sprawl, counter to Coastal Act policies designed to concentrate residential development to minimize impacts to coastal resources (sections 30250 and 30253).

While the certified LUP (which serves as guidance) does not preclude ADUs and junior ADUs from being developed in conjunction with a new single-family residence, the owner may also rebuild a duplex on the site. The two existing units are similar in size, consisting of 3 bed/2 bath and 2 bed/2 bath units, but the proposed 2,774 sq. ft. single-family residence would be more than ten times larger than the 215 sq. ft. junior unit. Construction of a 215 sq. ft. junior unit in place of an existing primary dwelling unit will contribute in some respects to a loss of housing density in Mission Beach. In order to address concerns about the loss of density, **Special Condition #1** requires the applicant to submit revised final plans that include two primary dwelling units of substantially similar size. **Special Condition #2** requires the duplex to be maintained as two separate residential units.

Community Character

With the exception of Belmont Park, the entire stretch of properties abutting Ocean Front Walk is a mix of single and multi-family residences, with a small number of commercial businesses scattered throughout the community. The character of the buildings in the Mission Beach community range from single-story beach cottages to three-story multi-family units. To better understand the density of the subject neighborhood, Commission staff conducted a survey of 34 residences surrounding the project site ([Exhibit 5](#)). The survey area included the lots on Ocean Front Walk between San Fernando Place to the north and San Gabriel Place to the south, as well as the lots on the block immediately east of the subject lot between Ensenada Court to the north and Dover Ct to the south. Three of the 34 lots contained single-family residences (8.8%), 14 contained duplexes (41.2%), 14 contained triplexes (41.2%) and the remaining three contained multi-family residences ranging from 5 to 9 units (8.8%). The average number of units was 2.7 and the average lot size was 3,094 sq. ft.

Based on the survey, a duplex would be compatible with the character and bulk and scale of the community. Furthermore, fifteen of the lots surveyed appear to be legal non-conforming lots where the number of existing units exceeds the density currently allowed by the PDO (1 dwelling unit per 1,200 sq. ft.). As these lots redevelop in the future and are brought into conformance with the density requirements of the certified LCP, there will cumulatively be a significant loss of density in this area. This underscores the importance of maintaining existing density in the subject neighborhood.

Since the existing structure was built in 1929, it is subject to the City of San Diego's review for historical significance. Section 143.0212 of the City's Land Development Code provides that the City shall determine the need for a site-specific survey for the purposes of obtaining a construction permit or development permit for development for any parcel containing a structure that is 45 or more years old. In this particular case, the structure is approximately 90 years old, but the City's Development Services did not find the structure to be eligible for historical designation and there is no evidence that the structure has historic value.

As conditioned to require redesign of the project to provide two primary dwelling units of substantially similar size that will be maintained as separate dwelling units, the Commission finds the project as conditioned consistent with Sections 30250, 30251 and 30253 of the Coastal Act and with the provisions of the Mission Beach PDO protecting community character and ensuring that development will be located in appropriate areas to avoid impacts to coastal resources.

C. Public Access and Recreation

The following Coastal Act policies are most pertinent to the issue of 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 relevant 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: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby,

[. . .]

Section 30252 of the Coastal Act states, in relevant 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....

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

[. . .]

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

Section 1513.0403 of the Mission Beach PDO states, in relevant part:

(b) Residential Subdistricts

Every premises used for one or more of those uses permitted in Section 1513.0303 shall be provided with a minimum of two permanently maintained off-street parking spaces per dwelling unit [. . .]

The project site is located adjacent to the public beach and Ocean Front Walk. The boardwalk is accessible from the east/west courts and streets off of Mission Boulevard, which provide access to the sandy beach at stairways located at various points along the seawall. Ocean Front Walk is a popular thoroughfare, especially during the summer,

and is frequented by pedestrians, bicyclists, skateboarders, and more. Ocean Front Walk is part of the larger network of public rights-of-way that make up the Mission Beach community's public accessways. Like many of the residences along this stretch of Ocean Front Walk, the subject property contains walls, landscape, and hardscape that encroach into the public right-of-way ([Exhibit 4](#)). The applicant has proposed to remove the encroachments and replace it with concrete that matches Ocean Front Walk. In order to ensure that the re-designed duplex does the same, **Special Condition #1** requires all development located outside the property line to be removed.

The Mission Beach PDO requires applicants to provide two parking spaces per dwelling unit. The proposed junior unit is consistent with the LCP's definition and building standards for junior units, and the LCP does not require parking for junior units. Therefore, the proposed single-family residence and junior unit would be required to provide two parking spaces, rather than the four that would be required for a duplex. **Special Condition #1** requires the revised duplex to comply with all requirements of the PDO. The duplex will therefore be required to include four parking spaces in compliance with the PDO.

Because many of the lots in Mission Beach, including the subject site, are constrained and have limited access and space to accommodate construction activities and staging, demolition and construction activity could impede public access by occupying public parking spaces or blocking public rights-of-way with materials or debris. To avoid impacts to public access associated with demolition and construction activities, **Special Condition #4** prohibits any development during peak summer months when public access could be impacted. **Special Condition #5** requires the applicant to submit a written agreement memorializing the landowner's acknowledgment and acceptance of the construction timing limitations and requires the applicant to submit a weekly construction schedule to confirm that work will not occur during summer. **Special Condition #9** requires recordation of the permit conditions against the property to ensure future property owners are aware of the above-mentioned protections and conditions.

Therefore, the Commission finds the proposed development, as conditioned, consistent with Chapter 3 of the Coastal Act.

D. Coastal Hazards

Coastal Act Section 30235 addresses the use of shoreline protective devices:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures. Section 30253 provides, in applicable 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.

Sea level rise is expected to exacerbate existing coastal hazards by raising mean water levels and extending flood zones inland. As noted in the Commission's 2018 Sea Level Rise Guidance Update and other studies, increased sea level is expected to cause increased inundation of beaches, reduced accretion, or increased erosion of beaches.

The Mission Beach neighborhood is low-lying area on a narrow peninsula situated between the Pacific Ocean to the west and Mission Bay to the east, which currently experiences periodic flooding that will likely increase with sea level rise. Because there is a wide sandy beach (approximately 200 ft. wide) and a public boardwalk (approximately 20 ft. wide) protected by a seawall between the subject property and the Pacific Ocean, wave runup and overtopping are not expected to significantly impact this site over the life of the proposed improvements; however, as a shorefront property, the proposed development may be threatened by sea-level rise at some point in the future. Historically, the most common response to coastal hazards has been to construct shoreline protective devices in order to slow the erosion of beaches and bluffs, retain unstable slopes, and prevent flooding.

The Coastal Act discourages shoreline protection devices because they generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. Shoreline protection devices are physical structures that take up space and displace or modify prior uses of coastal land (e.g., beach recreation, habitat, etc.), including the occupation of public beach. Seawalls and, in particular, revetments, may have large horizontal footprints, displacing what would otherwise be sandy beach, and resulting in a long-term loss of beach area for public access, recreation and other uses. In addition to frequently encroaching onto the public beach, shoreline protection devices, by slowing or stopping natural processes of shoreline retreat, also prevent the future creation of new beach and eliminate a supply of new sand that would otherwise have resulted from bluff and shoreline erosion. By design, shoreline protection devices establish a fixed landward boundary of the back beach ("fixing the back beach"), and prevent the natural, ongoing inland adjustment of the beach that occurs on an eroding coast; over time, this restriction of a beach's adaptive capacity can result in the narrowing or loss of the beach ("passive erosion"). Future sea level rise is expected to result in the drowning or "pinching out" of many

California beaches (Vitousek et al. 2017), an effect that will only be exacerbated in locations with extensive shoreline protection.

By substituting hard materials (e.g., rock, concrete) in place of more erodible natural substrates (e.g., sand, soils, terrace deposits, sedimentary rocks), shoreline protection devices can also change wave reflection patterns, cause scour or winnowing of beach sediments along the shoreline, and increase erosion rates at unarmored locations up- and down-coast of the structure (“end effects”). In certain locations, shoreline protection devices may also interrupt or interfere with longshore and cross-shore sediment transport, resulting in deposition of sand in one location at the expense of other locations further “down drift” along the coast. Broader effects of shoreline protection devices include changes to the recreational and beach use experience, impacts to beach and other coastal ecosystems, and impairment of the aesthetic and visual character of the coast.

Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically prohibits development that could “create [or] contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.” However, Section 30235 of the Coastal Act recognizes that existing development may be protected by shoreline protective devices subject to certain conditions. This limitation is particularly important when considering new development, such as in this case, because if it is known that a new development may need shoreline protection in the future, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act, which requires new development to minimize risks to life and property. Therefore, the Commission’s action on this project must consider the effects of wave uprush, flooding, and storm events (with sea-level rise considerations) on public access and recreation.

The proposed project is located immediately adjacent to and east of Ocean Front Walk, an approximately 2.3-mile public beach boardwalk constructed prior to the effective date of the Coastal Act. The boardwalk consists of an approximately 10-20 ft. wide sidewalk bordered on the seaward side by a concrete parapet above a sheetpile seawall that extends approximately 20 ft. down into the sand. During the summer, sand typically covers most of the seaward side of the seawall; in the winter, more of the seawall is exposed, and during extreme storm events, waves have overtopped the parapet. The boardwalk effectively serves as a low seawall along the entire shoreline in Mission Beach, set back from the shoreline and fronted by the beach. If beach erosion were to continue unabated as a result of accelerated sea level rise, it would eventually lead to a situation where the water’s edge would be at the base of the seawall that protects the boardwalk. Without the beach buffer, the waves – particularly storm waves – would eventually undercut the seawall and damage the boardwalk. While the seawall does reduce the risk to the structures inland of the boardwalk from flooding from overtopping waves, the seawall should not be relied upon to protect new private development, including the proposed project.

The Commission has authorized repair and maintenance to the boardwalk and associated seawall in the past (CDP Nos. 6-98-102, 6-00-130, 6-03-090-W, 6-05-0125-W, 6-13-1359); however, those repairs were authorized to maintain and protect existing public improvements, including the boardwalk itself, as well as public amenities located landward of the boardwalk (i.e., Belmont Park, public parking, and a grassy park). While future repair and maintenance of the boardwalk and seawall could be considered and authorized by the Commission, any such repairs would likely be authorized only for the benefit of the existing public amenities, and would not be considered for the protection of private residential development landward of the boardwalk, including the proposed project.

The project, as new development, is not entitled to shoreline protection and as such, the applicant is required to waive any right to construct a shoreline protective device to protect the development in the future, as outlined in **Special Condition #7**. Further, the landowner must remove the development if (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (d) the development would require a shoreline protective device that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP. Finally, according to Our Coast, Our Future sea level rise projections, the shoreline could migrate onto the site within the lifetime of the proposed development if the seawall at Ocean Front Walk is removed in the future. **Special Condition #7** further requires any future encroachment onto public trust lands to be removed unless authorized by the Coastal Commission and the State Lands Commission.

The applicant has acknowledged that periodic storm and flood events occur throughout the Mission Beach community and has submitted a coastal hazards analysis with a description of how the proposed project would accommodate future flooding due to sea level rise and groundwater rise. Commission staff reviewed the analysis and found that, given the constraints on the site, the proposed project would adequately accommodate future flooding. The new development will be constructed on an elevated concrete pad at 14.4 ft. NAVD 88, which is approximately 8.2 ft. above the current groundwater elevation. The concrete foundation will have a waterproof membrane and subsurface drainage to protect against flooding due to sea level or groundwater rise, and the first 12 inches of the perimeter walls will be made of concrete to further protect against flooding. **Special Condition #6** requires the applicant to acknowledge the risk of building in a hazardous location and ensures that the risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant enjoying the benefits of its private new development, and not the public. Finally, **Special Condition #8** requires the applicant to notify all future occupants of the duplex of the acknowledgements, agreements, and provisions in Special Conditions #6 and #7. As conditioned, the Commission finds the project consistent with the coastal hazards policies of Chapter 3 of the Coastal Act.

E. Visual Quality

Section 30251 of the Coastal Act states, in 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.

In the Mission Beach neighborhood, the public rights-of-way of the various courts and places, which are generally east-west running streets, as well as the yard setbacks of the adjacent properties comprise the community's public view corridors. Because the project is located between the first public road and the sea, there is the potential for the project to impact views to the shoreline from Mission Boulevard.

The Commission typically reviews projects to ensure that any new development does not encroach into the yard setback areas, which could impede public views, or into public rights-of-way, which could impede public access. Such encroachments could include structures and/or landscaping. Like many properties fronting Ocean Front Walk, the existing development includes walls, landscape, and hardscape that encroaches into the public right-of-way on Ocean Front Walk. The applicant has proposed to remove these encroachments and install concrete that matches the existing boardwalk ([Exhibit 4](#)). **Special Condition #1** requires the re-designed project to remove the encroachments. To ensure that public views and public access towards the ocean are protected, **Special Condition #1** future requires the applicant to submit final plans confirming that no structures will be located in the view corridors. In addition, **Special Condition #3** requires the applicant to submit a final landscaping plan requiring all landscaping and hardscape in the western yard area to consist of low-lying materials not exceeding three feet in height. Thus, visual quality and public views will be protected, consistent with Coastal Act Section 30251.

F. Local Coastal Planning

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The City of San Diego has a certified LCP and issues permits for development within its jurisdiction. The subject site is located within the Residential South (R-S) zone of the Mission Beach Planned District. The purpose of the Residential Subdistricts is to regulate small-scale and low-profile developed area with a maximum residential density of approximately 36 dwelling units per net acre residential area. The proposed residential use of the subject site is therefore consistent with the certified LCP.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act as well as with the certified LCP which the Commission uses as guidance for the subject area. Approval of the project—as conditioned—will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

G. California Environmental Quality Act

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 City of San Diego found that the proposed project is exempt under CEQA as a project that has no potential to have a significant effect on the environment. (Cal. Code of Regs., tit. 14, 15061(b)(3).)

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing landscaping, construction activities, and hazards will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project 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

- Certified Mission Beach Precise Plan
- Certified Mission Beach Planned District Ordinances
- City of San Diego Land Development Code