

CALIFORNIA COASTAL COMMISSION

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W15e

ADDENDUM

December 14, 2021

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W15e, APPLICATION NO. 5-21-0467 (Reinis) FOR THE COMMISSION MEETING OF WEDNESDAY, DECEMBER 15, 2021.**

I. RESPONSE TO CORRESPONDENCE

Since the publication of the staff report, the Commission has received one letter from the applicant in opposition of the staff recommendation for the above referenced CDP application. The letter is included within the Correspondence for this item. The points raised and staff's responses thereto are hereby added to the proposed findings included in the December 2, 2021 staff report. The comments are summarized below, with staff's responses:

1) Senate Bill SB-9 will only apply to lots within single-family residential zoning, so the approval of the project with revised plans for duplex will be tantamount to a denial of the permit. While the staff recommendation and findings are based upon consistency with the Coastal Act and uses the certified LCP as guidance, staff disagrees with the contention regarding the applicability of SB9. The April 27, 2021 amendment referenced by the applicant was to Section 2 of SB9, regarding urban lot splits, not Section 1, which is relevant to duplexes. Section 1 of SB9 includes the addition of 65852.21 to the Government Code. While subsection(a) is addressed to ministerial approval of housing developments within a single-family residential zone, SB9 also adds Government Code section 65852.21(b)(2)(A) and states, "The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units..." If this were read to only apply to single-family residential zoned lots, a duplex that a local government would have to be allowed on such a lot could be prohibited on a multi-family zoned lot that has been so designated as appropriate for such use. This subsection does not have any reference that limits its applicability to single-family residential zone. Therefore, as of January 1, 2022, local governments can no longer impose objective zoning standards,

such as the minimum lot area per dwelling unit requirement, that precludes the lot from being built with two full residential units.

2) The LUP would only allow a single-family residence on the lot, because the lot is smaller than 2,400 sq. ft. Staff disagrees. The plans submitted by the applicant and approved by the City show the lot is 2,400 sq. ft. in size. Moreover, the assessor's map as shown in Attachment A of this addendum shows the lot dimension of 30' X 80', which renders the lot area to be 2,400 sq. ft. While the 7 sq. ft. shortage shown on the assessor's parcel data may come from slight discrepancies during survey, the intent of the LUP is clear to provide a multi-family residential structure on the lot. And, again, the Coastal Act is the standard of review for this project, with the certified LUP used as guidance.

3) The City of Hermosa Beach will not approve a duplex that has three parking spaces to be shared among the two units. Staff once again notes that, effective January 1, 2022, the City of Hermosa Beach is no longer able to enforce its current zoning code that prohibits a duplex on the site, as it constitutes an objective zoning standard that would have the effect of physically precluding the construction of up to two units.

4) The Commission has previously considered staff's recommendation to apply laws retroactively, and it has refused to do so¹. The applicant claims that he must have the benefit of the rule of law in effect at the time he applied for a permit, not legislation that has not yet, and may not be signed into law. Because the applicant submitted the application on June 29, 2021, he claims that he cannot be held to a legal requirement in pending legislation that would not take effect until 6 months later. Staff notes that SB9 was signed into law on September 16, 2021 and goes into effect on January 1, 2022, approximately two weeks after this hearing. Regardless, the standard of review for the project is the Coastal Act, with the certified LUP serving guidance. The certified LUP intends the lot to be a multi-family residential lot, and the lot is consistent with the LUP for two units with regard to the lot size. Therefore, staff recommends approval of the project as conditioned.

¹ The applicant cites application Nos. 5-19-1215 and 5-19-1220 as examples where the Commission rejected staff's recommendation to apply provisions of the Housing Crisis Act to applications that were filed before the law became effective. In these cases, the certified LUP did not allow duplexes, unlike the currently proposed project.

