

CALIFORNIA COASTAL COMMISSION

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5-21-0467 (Reinis)

December 15, 2021

CORRESPONDENCE

SROUR & ASSOCIATES
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December 10, 2021

Steve Padilla, Chair
California Coastal Commission
455 Market St., Suite 300
San Francisco, CA 94105

RE: Application No. 5-20-0477 (626 The Strand, Hermosa Beach, Los Angeles County)

Dear Chair Padilla:

The Applicant respectfully requests that the Commission approve this Coastal Development Permit (Permit) without Special Conditions 1.A and 1.B, and with conforming modifications to Special Conditions 3, 5, and 6 (as set forth on page 3). If the Commission follows the Staff recommendation to impose these conditions, your approval of the Permit will be tantamount to a denial of the Permit.

The Applicant has proposed to build a single-family residence with a two-bedroom, 674 square-foot accessory dwelling unit (ADU) on a lot currently occupied by a duplex. The Staff has acknowledged that the Zoning Code of the City of Hermosa Beach prohibits the Applicant from building a duplex on the lot. Under the Zoning Code, the lot is too small for a duplex. However, the Staff is recommending that you approve the Permit only if the Applicant builds a new duplex on the lot.

The Staff is under a mistaken belief that beginning on January 1, 2022, Senate Bill SB-9 will override the City's Zoning Code and require the City to approve a duplex on the Applicant's lot. In fact, this is not correct. According to the Legislative Report delivered to the Commission on September 8, 2021, by the Commission's Chief Counsel and Executive Director, SB-9 "would require cities and counties to ministerially approve applications for housing units containing 2 residential units within single-family residential zoning if certain conditions are met."¹ The fact that SB-9 applies only in single-family zones is no accident. As originally introduced, the Bill applied to all residential zones, but it was amended in Committee on April 27, 2021, to limit its scope to single-family residential zones.² The Applicant's lot is in a multifamily residential zone. Therefore, SB-9 will not require the City of Hermosa Beach to approve plans for a duplex on this lot.

¹ Legislative Report for September 8, 2021, from John Ainsworth, Executive Director; Sarah Christie, Legislative Director, Sean Drake, Legal Analyst (emphasis added).

² See Legislative Analysis of SB-9, Senate Committee on Appropriations (April 27, 2021).

The Staff also incorrectly states that the City's 1982 Land Use Plan (LUP) certified by the Coastal Commission would allow the construction of a duplex on the Applicant's lot. In fact, the LUP would allow only a single-family residence on the lot, because the lot is smaller than 2,400 square feet, according to both the land survey and the Los Angeles County Tax Assessor Records. Therefore, a duplex would not be allowed under current or previous versions of the City's Zoning Code.

The Staff also recommends that you require a duplex that has three parking spaces to be shared among the two units. The City of Hermosa Beach will not approve such an arrangement -- whether on this lot or in any of its multifamily residential zones -- because duplexes must have six parking spaces under the City's Zoning Code. Again, this is a condition that calls for a legal impossibility.

On November 14, 2021, the Commission approved two permits for the construction of single-family residences with ADUs in the City of Hermosa Beach on single-family zoned lots. The Staff did not recommend, nor did the Commission require, those Applicants to build duplexes, even though those lots will be eligible for duplexes under SB-9 beginning on January 1, 2022. Here, the Applicant's lot is not eligible for a duplex under SB-9, but the Staff is recommending that the Commission require one. Moreover, the Applicant's proposed ADU is larger than both of those approved last month, has two bedrooms, and is on the second floor. The Staff has provided no explanation for the clear inconsistency between its support of the ADUs that came before you last month and its objection to the Applicant's proposed ADU.

Finally, the Commission has previously considered the Staff's recommendation to apply laws retroactively, and it has refused to do so. For example, on October 7, 2020, the Commission rejected the Staff's recommendation to apply provisions of the Housing Crisis Act to applications that were filed before that law became effective.³ The issue there was the same as the issue here: notice. Applicants to the Commission must have the benefit of the rule of law in effect at the time they apply for a Permit, not legislation that has not yet, and may not be, signed into law. Here, the Applicant submitted his application on June 29, 2021. He cannot be held to a legal requirement in pending legislation that would not take effect until 6 months later.

Certainly, the Commission may promote the use of SB-9 to create duplexes in cases where Cities must approve them. But this is not one of those opportunities, because SB-9 does not require the City of Hermosa Beach to approve a duplex on this lot, and the City will not do so.

In short, the Staff's recommended conditions for construction of a duplex are ones that the Applicant cannot fulfill. They will leave him with no path forward, other than to retain the existing 100-year-old two-bedroom and one-bedroom structures that are well beyond their useful life. Consequently, we ask that you approve the Permit as recommended by Staff, with the following changes:

³ See Application Nos. 5-19-1215 and 5-19-1220.

- 1) Strike Special Conditions 1.A and B.
- 2) In Special Condition 3.A, first sentence, strike “new duplex” and insert “single-family residence with accessory dwelling unit”.
- 3) Revise Special Condition 5 to read:

Retention of a Single-Family Residence and Accessory Dwelling Unit On-Site. The development approved by Coastal Development Permit No. 5-21-0467 is for construction of a single-family residence with a 674 square foot 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.

- 4) Revise Special Condition 6 to read:

Annual ADU Monitoring. Not more than one year after construction of the single-family residence and 674 square foot ADU, the permittee shall provide a report that details the rental advertising for the 674 square foot 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.

Sincerely,

Brandon Straus
Brandon Straus