

**CALIFORNIA COASTAL COMMISSION**

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# Th13c

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-20-0503

**Applicant:** 802 Strand Investments, LLC

**Agent:** Srour and Associates

**Location:** 802 The Strand, Hermosa Beach, Los Angeles County (APN: 4187-002-001)

**Project Description:** After-the-fact conversion of a duplex to a single-family residence, demolition of the current 3,540 sq. ft. single-family residence, and construction of a 30-ft. high, three-story, 3,762 sq. ft. single-family residence and 552 sq. ft. accessory dwelling unit.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish an existing two-story, 3,540 sq. ft. duplex and to construct a 30-ft. high, 3,762 sq. ft., three-story single-family residence with an attached 2-car garage, and one guest parking space in the driveway ([Exhibit 2](#)). The proposed residence includes an attached 552 sq. ft. accessory dwelling unit (ADU) with a separate entry, kitchen/dining area, living room, one bedroom, one bathroom, and windows on the ground floor level of the proposed structure. Non-invasive, drought tolerant landscaping is proposed for the project. The applicants are also proposing 107.1 cubic yards of grading to be exported outside the coastal zone. The project site is

well-served by public transportation and other amenities and is not located in an area that is subject to coastal hazards.

The Commission certified the City's Land Use Plan (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 primary issue raised by this project concerns the cumulative effects of loss of housing density as a result of demolition of the existing duplex and construction of a single-family residence. As proposed, the project would eliminate two units and construct a 3,762 sq. ft. single family residence that includes a 552 sq. ft. ADU. The Coastal Act encourages the concentration of new development in already developed areas that can accommodate it to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (PRC 30250 and 30253(d)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

The project must be viewed in the context of broader housing trends in the coastal zone as well as the significant housing crisis throughout the State. Evidence before the Commission establishes that the project is not an isolated case; rather, since 2014 the Commission has approved at least 41 projects that converted multi-family developments to single-family residences in Hermosa Beach (for a total loss of 47 residential units) ([Exhibit 3](#)). In recent actions, the Commission has expressed concern with similar projects and the cumulative loss of housing density and has in the past strongly encouraged the construction of accessory dwelling units to mitigate for demolished units. At the same time, however, the Commission has questioned whether ADUs adequately mitigate for the loss of housing density that results from demolition of duplexes and other multi-family developments.

On the subject site, a duplex would be consistent with the certified LUP. The project site is designated in the certified LUP as a high-density residential lot (26-40 DU/AC), which corresponds to the R-3 zone in the City's uncertified zoning code. The Residential Zone Requirements in the certified LUP state that a minimum of 950 square feet is required for each dwelling unit on an R-3 lot. The project site has a lot size of 2,400 square feet, meaning that two units may be developed on the project site under the certified LUP.

However, the City's current Zoning Code (which has not been reviewed or certified by the Commission) requires a minimum of 1,320 sq. ft. of lot area per dwelling unit in the R-3 zone, which prohibits the development of a multi-family residence on this 2,435 sq. ft. lot. Therefore, denying this application due to the loss of density could make it difficult for the applicants to get a project approved by the City because they cannot maintain the existing density allowed under the certified LUP while complying with the City's uncertified Zoning Code. While the zoning code is not the Commission's standard of review for the project, in this case there is a compromise approach that allows the retention of two residential units through approval of a single-family residence with an

ADU. This compromise approach would allow the aging existing duplex (which is nearing the end of its projected lifespan) to be redeveloped while mitigating the proposed reduction of housing density on the subject site.

The certified LUP does not preclude ADUs from being developed in conjunction with a new or existing single-family residence, and the City's ADU ordinance (which is not a part of the certified LUP) also allows for construction of an ADU on the subject site, consistent with statewide ADU laws. Therefore, in this case, mitigation for the loss of one residential unit by including the construction of an ADU is a compromise approach to allow the property owner to redevelop the site and the 68 year old residential structure while maintaining the same number of housing units, consistent with both the LUP and the uncertified Zoning Code.

In this case, the applicants propose to offset the loss of a residential unit by constructing a 552 sq. ft. ADU on the seaward side of the residence that has its own separate entrance, full kitchen, bedroom, bathroom, and windows. ADUs/JADUs are important mechanisms to increase the potential number of independent housing units that can be rented out separately from the primary residence. However, ADUs are dependent on the primary residence to serve as a housing unit and cannot be sold separately from the primary residence. In addition, it may be difficult to enforce the continuous provision of an ADU and ADUs are more easily left vacant or used by the occupants of the primary residence. Therefore, the Commission imposes special conditions requiring the applicants to maintain a single-family residence and an ADU on-site, and prohibiting ingress or egress (doors) between the ADU and the primary residence. The Hermosa Beach ADU ordinance prohibits short term rental of ADUs (Ref: Urgency Ordinance No.20-1403-U), so a special condition is included to memorialize this City requirement and to further mitigate the loss of housing density on the subject site. 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 a special condition requiring that the property owners record a deed restriction against the property, incorporating all of the Special Conditions of this permit.

As described in more detail below, violations of the Coastal Act have occurred on the subject site including but not limited to the conversion of an existing duplex to a single-family residence, without benefit of the necessary coastal development permit. Approval of this application pursuant to the staff recommendation will result in the resolution of the existing violation on the project site. However, the Commission also imposes a special condition requiring the applicant to pay an after-the-fact fee equaling two times the regular permit fee for the development, as required pursuant to Section 13055 of the Commission regulations.

Therefore, Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-20-0503 with twelve special conditions. The motion and resolution can be found on Page 5.

## TABLE OF CONTENTS

I. MOTION AND RESOLUTION .....	5
II. STANDARD CONDITIONS .....	5
III. SPECIAL CONDITIONS .....	6
IV. FINDINGS AND DECLARATIONS .....	10
A. Project Description and Background .....	10
B. Development .....	11
C. Public Access .....	18
D. Hazards .....	20
E. Unpermitted Development .....	25
F. Water Quality .....	25
G. Deed Restriction .....	27
H. Local Coastal Program .....	27
I. California Environmental Quality Act .....	28
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS .....	29

## EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Proposed 552 Sq. Ft. ADU](#)

[Exhibit 4 – Community Character Analysis](#)

[Exhibit 5 – Commission Approvals of Density Reduction Projects in Hermosa Beach Since 2014](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-20-0503 subject to conditions set forth in the staff recommendation specified below.

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 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. Final Revised Plans.

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of the following revised final plans, modified as required below.

1. The applicant shall incorporate an accessory dwelling unit (ADU) that has been reviewed and approved by the City of Hermosa Beach into the design of the single-family residence.

**B.** All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.

**C.** The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

#### 2. Retention of a Single-Family Residence and Accessory Dwelling Unit On-Site.

The development approved by Coastal Development Permit No. 5-20-0503 is for construction of a single-family residence with a 552 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.

#### 3. No Short-Term Rentals. BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicants and all assigns/successors agree to prohibit short-term rental (less than 30 days) of the approved ADU for the life of the development.

#### 4. Waiver of Rights to Future Shoreline Protective Device.

**A.** By acceptance of this permit, the applicant acknowledges that the development authorized by this permit- including the single-family residence, ADU, attached garage, foundations, and patio- constitutes new development under the Coastal Act, and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

**B.** By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the development authorized by the permit, and restore the site, if:

(1) the City or any other government agency with legal 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;

(2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;

(3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or

(4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

In addition, the development approval does not permit encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval.

## **5. 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 August 9, 2020 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.

- 6. 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.

**7. Encroachments.**

A. An approximately 180 square-ft. patio extending approximately 6 ft. into the public right-of-way, for approximately 30 ft. along the width of the seaward property line, and an approximately 1,760 sq. ft. patio extending approximately 22 ft. into the public right-of-way for approximately 80 feet along the length of the side yard property line (adjacent to 8<sup>th</sup> Street) are the only developments allowed by this Coastal Development Permit (5-20-0503) in the City of Hermosa Beach Oceanfront Encroachment Area, at 802 The Strand, as shown in [Exhibit 2](#). Any development in the oceanfront public right-of-way, including additional improvements, repairs, and maintenance, cannot occur without an amendment to this coastal development permit or a new coastal development permit from the Coastal Commission, unless the Executive Director determines through written confirmation that no amendment or new permit is legally required.

- 8. **City's Right to Revoke Encroachment Permit.** Approval of this coastal development permit shall not restrict the City's right and ability to revoke, without cause, the approved City encroachment permit in order to construct public access and recreation improvements within the public right-of-way.
- 9. **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.
- 10. **Minimum Seaward Setbacks.** The rear (seaward) setback of the structure shall not be less than 5 feet from the property line. This shall apply to all habitable areas,

non-habitable areas, and the foundation of the structure except for ground level patios.

- 11. Future Development.** This permit is only for the development described in coastal development permit (CDP) No. 5-20-0503. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions that would otherwise be provided in Public Resources Code (PRC) Section 30610(a) shall not apply to the development governed by CDP No. 5-20-0503. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP No. 5-20-0503 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition, an amendment to CDP No. 5-20-0503 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit pursuant to PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).
- 12. 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 applicants are proposing to authorize the following development: 1) authorize an after-the-fact conversion of a 3,540 sq. ft., three-story duplex into a single-family residence; 2) demolish the 3,540 sq. ft. residence; and 3) construct a 3,762 sq. ft., three-level single-family residence with an attached two-car garage ([Exhibit 2](#)). The residence includes an attached 552 sq. ft. ground-level accessory dwelling unit (ADU) with a separate entry, kitchen/dining area, living room, bedroom area, and bathroom ([Exhibit 3](#)). Non-invasive, drought tolerant landscaping is proposed for the project. Approximately 107 cubic yards of grading is proposed, and will be exported outside the coastal zone.

The subject site is a 2,435 sq. ft. rectangular-shaped lot located adjacent to the public beach in a built out residential neighborhood in Hermosa Beach. The majority of the project site's surrounding parcels accommodate 2 to 3-story single family and multi-family residences ([Exhibit 1](#)). The project site is designated in the certified LUP as a High-Density Residential lot, which corresponds to the R-3 zone in the City's uncertified zoning code. Pursuant to the LUP, the High Density, or R-3, zone allows multiple dwellings, and requires a minimum lot area of 950 sq. ft. for every dwelling unit. The proposed development (a single-family residence with an attached ADU) is a permitted use within the R-3 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.

### **Project Site History**

The current structure was constructed as a four-unit residential structure in 1953, prior to passage of the Coastal Act. In 2002, the Commission approved CDP Waiver No. 5-02-127-W for a 250 sq. ft. third story addition and a conversion of the four-unit structure into a duplex. In 2007, the duplex was converted into a single-family residence without the benefit of a CDP.<sup>1</sup>

The structure currently on-site is a single-family residence. However, as it will be explained later in this staff report, for purposes of analyzing the impacts of the proposed development, the project includes a remodel and conversion of a duplex to a single family residence because the conversion of the duplex to a single-family residence was not permitted through a CDP. This staff report will therefore analyze the impacts of the proposed conversion of a duplex to a single-family residence, as well as the demolition of the existing single-family residence and construction of a new single-family residence.

## **B. Development**

Section 30250 of the Coastal Act states, in pertinent 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. 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

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<sup>1</sup> For additional information, refer to Section E: Unpermitted Development.

and the created parcels would be no smaller than the average size of surrounding parcels.”

Section 30251 of the Coastal Act states, in pertinent 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. 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:

(d) Minimize energy consumption and vehicle miles traveled”

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 I.)

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 that minimizes impacts on coastal resources and discourages 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, 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 (refer to LUP Sections IV.B and IV.C above). After certification of the LUP, however, the City made changes to their local planning documents that appear to be reducing, rather than preserving, existing housing stock in the coastal zone by restricting opportunities to construct duplexes and other multi-family residences, which is inconsistent with the certified LUP.

### **Housing Trends in Hermosa Beach**

There is an apparent trend of development in Hermosa Beach of converting multi-family residential developments into single-family homes. The Commission approved at least 41 projects since 2014 that converted multi-family units to single-family residences (a total loss of 47 residential units) ([Exhibit 5](#)). 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, however, 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>2</sup>

### **The Certified LUP’s Density Limits**

The project site is designated in the certified LUP as a high-density residential lot. The certified LUP defines high-density development as follows:

HIGH DENSITY: 26 to 40 dwelling units per net acre. Uses in this category would be mostly apartment buildings, which would be required to meet carefully designed standards for building coverage, setbacks, open space and parking. Small lots within the area will result in lower densities in part, existing high densities will be compensated for by these small lots, medium density – spot developments. It is

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<sup>2</sup> Refer to the staff report for CDP Application No. 5-20-0530 (Stabler and English)

intended that all future development in this area shall fall within the specified density range.

The LUP high-density designation corresponds to the R-3 zone in the City's uncertified zoning code. The certified LUP also includes the following development standards regarding the minimum lot area per dwelling unit for residential parcels based on the zoning designation:

<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 current development of the site is consistent with the High-Density LUP designation in that two residential units are currently available on site. The certified LUP defines high-density development as consisting mostly of apartment buildings and lower density structures on small lots. The duplex that previously existed on-site was consistent with the certified LUP's minimum lot area per dwelling unit development standards (found in Appendix G of the certified LUP): in the R-3 zone, the project site can accommodate two on-site residential units, because it meets the minimum lot size of 2,400 sq. ft. In addition, the single-family residence that currently exists on-site is also consistent with the LUP's zoning designation, as is the proposed single-family residence.

### **Application to this Project**

Section 30250 of the Coastal Act requires new development to be sited in existing developed areas where it can be accommodated without adverse cumulative impacts to coastal resources. Section 30253(d) requires new development to minimize energy consumption and vehicle miles traveled. Concentrating development in existing developed areas provides more opportunities for people to live near places they work and recreate, such as the beach, and, thereby, reduces impacts to coastal resources. Impacts to roads and vehicle miles traveled would be reduced by having a more intense stock of housing located closer to employment and recreational opportunities within the coastal zone. Also, by having a higher density in an existing developed area, more people are placed in a shared location encouraging the utility of public transit service,

which further aids in reducing the number of cars on streets, thus reducing impacts to coastal resources and public access. Siting dense development in urbanized areas reduces urban sprawl, and furthermore reduces the pressure to extend development into adjacent undeveloped areas, which may contain sensitive coastal resources, such as the nearby Santa Monica Mountains.

Maintaining the existing housing density or even increasing the housing density in areas with a public multi-modal transit system will help to reduce greenhouse gases that contribute to climate change and sea level rise. The project site is located in a dense, residentially zoned area where numerous residential opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within ½ a mile of the subject property, and can easily be accessed by walking, taking local buses, or by bicycle. In terms of regional public transit, the project site is located approximately 400 ft. (an approximately two-minute walk) from the Hermosa Avenue/6th Street Bus Stop. This bus stop is served by the Beach Cities Transit 109 line, which connects the three “Beach Cities (Redondo Beach, Hermosa Beach, and Manhattan Beach)” to El Segundo and LAX. The project site is also located 0.2 mile (an approximately four-minute walk) from the Commuter Express 438-line bus stop, which connects the South Bay Area to Downtown Los Angeles. Thus, the project site is in an already densely developed area that contains a multi-modal transit system that connects to the greater Los Angeles region. The project site is well-served by public transportation and other amenities and is not located in an area that is subject to coastal hazards.

Although this project would ultimately result in a loss of one residential unit, mitigated to some extent by the proposed ADU, discussed more fully below, the cumulative effect of the loss of residential housing in areas able to accommodate such density could unwittingly lead to increased pressure to develop housing in other areas that do not have adequate public transit and/or public services in the long run, thereby increasing reliance on automobiles (and, potentially, production of greenhouse gases), and in areas that are not appropriate for concentrated development, such as areas vulnerable to coastal hazards and sea level rise. As the recent changes to State housing laws demonstrate, given the existing housing shortages throughout the state, there is tremendous economic and political pressure to develop more housing opportunities; therefore, in the coastal zone, it is important to maintain density in already developed and appropriate areas to ensure protection of coastal resources.

Thus, the LUP policies to protect existing housing stock in Hermosa Beach support and are consistent with the Coastal Act policies encouraging concentrating development in areas that can accommodate more dense development. Although the project site is located in an area that would be appropriate for maintaining housing density and does raise concerns regarding the cumulative loss of housing density in Hermosa Beach, this case is complicated by the provisions of the City’s uncertified Zoning Code that prohibit the development of a multi-family residence in this 2,435 sq. ft. lot, as it requires 1,320 sq. ft. of lot area per dwelling unit in R-3 zone. While the uncertified zoning code is not the standard of review, if the Commission were to approve a residential development on this parcel that was denser than that allowed by the City’s zoning code, the applicants could have difficulty constructing the development due to the conflict with the zoning

code. The Commission must implement the Coastal Act, despite any inconsistencies with the uncertified zoning code, but there is a compromise approach available here that would allow the development to go forward in this case. Thus, the Commission can approve the project with an ADU as a compromise to mitigate the cumulative loss of housing density in Hermosa Beach.

### **Housing Density and ADUs**

The former duplex was a conforming structure under the certified LUP that provided two units from 2002 until 2007, when the duplex was converted into a single-family residence without the benefit of a CDP. The unpermitted conversion of the duplex to the current single-family residence resulted in the loss of one residential unit. Accordingly, redevelopment of a single-family residence on this site would maintain the loss of one existing residential unit. 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 high-density residential, or R-3 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>3</sup> In addition, an ADU on the project site appears 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).<sup>4</sup>

On January 1, 2020, new housing laws went into effect that seek to address the statewide housing crisis by encouraging the maintenance of existing multi-family residential density (SB330) and provision of additional accessory dwelling units (Government Code §§ 65852.2, 65852.22). 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.

From a Coastal Act perspective, ADUs raises concerns as to whether density will, in fact, be maintained in a manner consistent with Coastal Act development policies. Although ADUs are typically designed to function separately from the associated single-family residence, the ADU is inherently dependent on the single-family residence to

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<sup>3</sup> The certified LUP does not preclude ADUs/JADUs from being constructed in conjunction with a new or existing single-family residence.

<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 new state 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.



serve as a housing unit. ADUs share utility lines (power, water) with the associated single-family residence and 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 compared to a duplex. The Commission, for instance, does not have the authority to require that an ADU be rented out for the life of the structure. In addition, due to their size, ADUs are more easily left vacant or used by the residents of the primary single-family residence, rather than rented out.

In this case, the applicant has proposed to mitigate the unpermitted reduction of residential units by constructing an attached 552 square foot ADU located on the ground level of the residence that features a separate exterior entry (pursuant to the State's ADU requirements), a kitchen and dining area, living room area, sleeping area, and bathroom ([Exhibit 3](#)). The ADU is oriented on the seaward side of the proposed new structure, and the featured beach-fronting windows offer light, air, and a view to the beach. The ADU design is comparable to a standard studio unit and has been designed to function as a reasonable residence for an individual or a couple. As long as the proposed ADU is maintained as a separate unit, the proposed single-family residence and ADU could mitigate for the residential unit that was lost in 2007 when the former duplex was converted to a single-family residence. Therefore the Commission imposes **Special Conditions 1,2,3, and 13**. **Special Condition 1** requires the applicants to submit final revised plans demonstrating that the proposed ADU design has been approved by the City of Hermosa Beach. **Special Condition 2** 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. The Hermosa Beach ADU ordinance prohibits short term rental of ADUs (Ref: Urgency Ordinance No.20-1403-U). Therefore, **Special Condition 3** memorializes this City requirement to further mitigate the loss of housing density on the subject site. 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 12** requires that the property owners record a deed restriction against the property, referencing all of the Special Conditions of this permit.

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, and allow development that is also consistent with the local zoning code.

### **Community Character**

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 ([Exhibit 4](#)). The survey area encompassed the lots bounded by 10<sup>th</sup> Street to the north, 8<sup>th</sup> Street to the south, The Strand to the west, and Monterey Boulevard to the east. Of the total of 43 residential lots that were included in the survey area, 17 lots featured single family residences, 12 lots featured duplexes and 13 lots featured multi-family residences (3 units or more).

The results of the community character analysis indicate that the surrounding lots are currently developed with about 27% duplexes, 30% multi-family residences (consisting of between 3-5 units) and about 39% single-family residences. Given the fairly even distribution between of single-family residences, duplexes, and multi-family residences in this area, a new single-family residence with an ADU would not have an adverse impact on the community character of the area. Maintaining two units on site is consistent with the certified LUP goal to protect the current diversified mix of housing. As a single-family home with an ADU on a 2,435 sq. ft. lot, the proposed development is consistent with the certified LUP, which allows for a maximum of two units on the site.

As mentioned above, the project will contribute to the cumulative loss of housing density in Hermosa Beach. 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, and still allow the applicants to develop on the site under the City's Zoning Code. As proposed by the applicants and conditioned by the Commission, the project can be found to be consistent with Sections 30250, 30251, and 30253 of the Coastal Act pertaining to new development and community character.

### **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 adjacent to The Strand, an approximately 26-ft. wide public lateral walkway that extends for approximately four miles between 45th Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). [\(Exhibit 1\)](#). Approximately 20 ft. of The Strand is developed with a paved multi-use path used by both residents and visitors for recreational purposes such as walking, jogging, biking, etc., as well as for access to the shoreline. Portions of The Strand contains approximately 5-6 ft. of private encroachments that have been developed by adjacent homeowners pursuant to the City's encroachment permit program. The project site is also located adjacent to 8<sup>th</sup> Street, which serves as a public beach access road via an 8.5 ft. wide public sidewalk.

The project proposes a six-foot wide, approximately 180 sq. ft. encroachment area adjacent to The Strand and a 22-ft. wide, approximately 1,760 sq. ft. wide encroachment area adjacent to 8<sup>th</sup> Street. The encroachment areas would contain landscaping and temporary development (such as patio furniture and a BBQ grill), but would not include any permanent development. The City of Hermosa Beach administers the Encroachment Permit Program for the encroachment areas adjacent to the Strand and adjacent to 8<sup>th</sup> Street. The applicant has provided evidence of payment to the encroachment permit program. Moreover, the project will not adversely impact the public's ability to recreate to and along The Strand. The proposed structure is setback five feet from the seaward property line and three feet from the side yard property adjacent to 8<sup>th</sup> Street, consistent with the certified LUP's setback requirements. Neither of the two proposed encroachment areas obstruct the Strand or 8<sup>th</sup> Street public walkways. Therefore, as proposed, the development would not have any new adverse impact on public access to the coast or to nearby recreational facilities.

The project has been designed and conditioned to be consistent with the relevant Coastal Act Chapter 3 policies. However, the project's location adjacent to the beach may cause adverse impacts to coastal views and public access. Section 13250 of the Title 14 California Code of Regulations (CCR) states that internal floor area additions that are less than 10 percent of the current structure's floor area, and height increases of less than 10 percent of the current structure's height, are exempt from permit requirements, given that the structure is between the beach and the first public access road parallel to the beach. However, for the residences adjacent to The Strand, even minimal increases in height or floor area have the potential to impact public beach access routes or close off view corridors from public viewing areas. Therefore, the Commission imposes **Special Conditions 7,8,10, and 11. Special Condition 7** requires the applicant to submit evidence of enrollment in the City's Encroachment Permit program for the proposed encroachment areas described above. **Special Condition 8** memorializes the City's authority to revoke its encroachment permits if the

Strand must be relocated landward due to Coastal hazards. **Special Condition 10** requires the applicant to adhere to a minimum five-foot seaward setback for all habitable and non-habitable portions of the residence, except for ground-level patios. Finally, **Special Condition 11** requires the applicant to submit a new CDP application or amendment application for any future improvements, even those improvements that would normally be exempt from permit requirements under Section 13250 of the Title 14 CCR.

As proposed and 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 to Sections 30210, 30211, and 30212 of the Coastal Act.

## D. Hazards

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.”

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project raises potential hazards concerns related to the project site’s location on an oceanfront lot, as well its location in a low-lying area that is inherently vulnerable to flooding. Thus, potential hazards issues that must be addressed include the potential for erosion, flooding, wave runup, and storm hazards associated with oceanfront development, as well as the risks of locating development in an area that is currently vulnerable to flooding. Both of these hazards concerns may be exacerbated by sea level rise that is expected to occur over the coming decades. These hazards issues are discussed more fully below.

### Sea Level Rise

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to

accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years. Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. On November 7, 2018, the Commission adopted a science update to its Sea level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.” The most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 feet and 6.8 feet by the year 2100, though there is a risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the “business as usual” scenario (and data suggests temperatures and sea level rise are tracking along the higher projections), the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well (as evidenced by the recent updates to best available science). While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm impacts to coastal areas. For fixed structures on the shoreline, such as a seawall, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently. Accompanying this rise in sea level will be an increase in wave heights and

wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

The City of Hermosa Beach completed an initial sea level rise vulnerability assessment in 2014. The report indicates that the City's shoreline is highly vulnerable to change due to the very soft substrate (sand dunes) that were built upon, and the reduced influx of sediment to the littoral cell. The report also indicates that Hermosa Beach has gained significant beach width due to past sand replenishment projects, including replenishment needed to protect Los Angeles' Hyperion Sewage Treatment Plant, and that the structures protecting King Harbor in Redondo Beach, just to the south, serve as a sediment trap that benefits Hermosa's beach area. The report concludes on page 18 that:

"To the extent future coastal erosion increases as a result of sea level rise and related changes in sediment dynamics, and if future beach replenishment is not maintained, Hermosa Beach should expect a reduction of the protective beach buffer in front of the city. As a result, future flooding and storm surge could have a more destructive and farther-inland reaching impact than if the beach remains stable. In the absence of having [such] a detailed engineering study, the estimates of inland flooding under the higher sea level rise scenario used here thus may not fully capture the extent of potential risks to the city."

Therefore, there is a high degree of uncertainty regarding future impacts of sea level rise within the City and at the project site, which is adjacent to The Strand, not only caused by the uncertainty of global sea level rise projections, but also by uncertainty related to the long-term effectiveness and feasibility of sand replenishment, as well as the potential for changes in coastal management approaches within the littoral cell, which could significantly impact sediment transport in the area. Future impacts from sea level rise may include not only increased hazards at the project site, but also loss of public beach area within the City. These impacts will be further evaluated and addressed in the City's LCP planning process, which is currently underway.

### **Coastal Hazards and Shoreline Protection**

The Coastal Act strongly discourages shoreline protective devices to protect oceanfront development because such structures generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. As a sandy beach erodes, the shoreline will generally migrate landward toward the structure, resulting in a reduction and/or loss of public beach area with no increase of the landward extent of the beach. A beach that rests either temporarily or

permanently at a steeper angle, under natural conditions, will have less horizontal distance between the mean low water and mean high water lines, which narrows the beach sandy area available for public access. Shoreline protective devices also result in a progressive loss of sand because shore material is not available to nourish the nearshore sand bar. The lack of an effective sand bar can allow such high wave energy on the shoreline that sand materials may be lost offshore, where it is no longer available to nourish the beach. This also affects public access through a loss of sandy beach area. Shoreline protection devices such as revetments, seawalls, and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent beaches. Such a protective structure is often placed on public land rather than on the private property it is intended to protect, resulting in a physical loss of beach area formerly available to the general public. In general, shoreline protection devices are not attractive, can detract from a natural beach experience, and adversely impact scenic public views. Shoreline protective devices can also prevent the natural inland migration of public lands (whether submerged lands, tidelands, or public state lands) in areas where they are not adjacent to adjudicated property lines. Shoreline protective devices, by their very nature, tend to conflict with Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically requires that new development minimize risk to life and property in areas of high flood hazards and 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," including the natural shoreline and seacliffs. 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. 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.

For this project, the applicant has submitted a Coastal Hazard and Wave Runup Study dated September 16, 2019 prepared by Geosoils, Inc. for the subject project. The study concludes that because there is a wide sandy beach (approximately 410 feet wide) between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. The report finds that this holds true even for an estimated sea level rise up to 5.7 feet. However, as stated above, the most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 and 6.8 feet by the year 2100, and 6.8 feet of sea level rise was not analyzed in the applicant's hazards analysis. In addition, these projections have a level of uncertainty, as beaches are dynamic areas and our understanding of climate change and sea level rise is constantly evolving.

Therefore, the proposed new development, as a beachfront property, may be threatened by sea level rise at some point in the future if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area, which has been the general trend in sea level rise.

In order to analyze the project site for sea level rise impacts consistent with the Coastal Commission's Sea Level Rise Guidance, staff first followed the methodology outlined in the OPC's 2018 Sea level Rise document to establish a projected sea level range for the new development. The 2018 OPC guidance uses NOAA tide gauges, a projected project lifespan, and risk aversion scenario to estimate a sea level rise range. The sea level rise analysis assumed a 75-year projected lifespan for the project, consistent with the Commission's Sea level Rise Policy Guidance for residential development. According to the 2018 OPC update, the projected sea level rise range for the project site is tied to the Santa Monica NOAA Tide Gauge. This tide gauge estimates a range between 5.5 and 6.8 feet of sea level rise by 2100 (which falls within the 75-year projected lifespan for the project). With regard to the risk-aversion scenario, both the Commission's Sea level Rise Policy Guidance and the OPC documents recommend a medium-high risk scenario for residential developments. Under a 75-year projected lifespan, a medium-high risk scenario, and the project's location within the Santa Monica NOAA tide gauge, staff estimated 6.8 feet of sea level rise within the project vicinity.

Using the sea level rise estimates listed above, staff used CoSMoS to analyze the project site's vulnerability to sea level rise impacts. Staff ran the CoSMoS model using a 6.6-foot sea level rise scenario (the closest available option that was within the determined sea level range) and a 100-year storm scenario to represent the worst-case scenario. Under an estimated 6.6-foot sea level rise and 100-year storm scenario, the project site is not anticipated to be subject to coastal erosion or wave uprush; however, as discussed, coastal areas are dynamic environments and it is difficult to predict with certainty how any particular project site will be impacted.

The project site is susceptible to coastal flooding under the OPC sea level rise projections. The projected flooding is likely due to the project site's location in a low-lying area adjacent to the beach. This projected flooding appears to only affect some properties along the southern end of The Strand (including the project site), but does not extend throughout the whole beach-fronting Strand area.

The project, which includes the demolition of an existing duplex and construction of a single-family residence with an attached ADU, constitutes new development. As such, the new single-family residence and attached ADU are not entitled to shoreline protection and the Commission imposes **Special Condition 4** to confirm that the applicant is not entitled to shoreline protection for the development approved by this permit, including the residence, ADU, garage, foundations, and patio, and to waive rights to future shoreline protection. In addition, the applicant would be required to remove the approved development if the City or any other government agency with legal 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 coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. In addition, the public trust boundary may migrate landward in response to rising sea levels. If the public trust boundary does migrate landward and encompasses the development approved under CDP No. 5-20-0503, the development would need to be removed pursuant to **Special Condition 4**.

The hazards analysis provided by the applicant's coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards and is not expected to need shoreline protection over the life of the development. However, given the dynamic nature of coastal beaches, as well as the long-term uncertainty of sea level rise models, it is important that the risks of developing on this beachfront lot are borne by the applicant who will benefit from the private development, and not the public. In addition, the proposed development is located in an area where dynamic and unpredictable coastal hazards exist that could adversely impact the development should the applicant's predictions of flooding and sea level rise prove to be inaccurate. Therefore, the Commission also imposes **Special Condition 9**, which requires the applicant to assume the risk of development within an area with a known vulnerability to coastal hazards, including, but not limited to, coastal flooding.

## **E. Unpermitted Development**

Violations of the Coastal Act have occurred on the subject site, including but not limited to the conversion of an existing duplex to a single-family residence, without benefit of the necessary coastal development permit. According to County Assessor data, this conversion occurred in 2007. Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

In addition to the project proposal explained above, the applicant is proposing to seek an after-the-fact approval for the conversion of the duplex to a single-family residence. Approval of this application pursuant to the staff recommendation would result in a resolution of violations remaining on the subject property. Although development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations).

## **F. 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.”

### **Construction Impacts to Water Quality**

The above policies of the Coastal Act require protection of marine resources, including the protection of coastal waters by controlling runoff and preventing spillage of hazardous materials.

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 productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 6**, 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 applicants to remove all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

### **Post-Construction Impacts to Water Quality**

The proposed project 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. In order to deal with these post construction water quality impacts, the applicants have submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. The Commission imposes **Special Condition 5**, which ensures that the project conforms to the drainage and run-off control plan received on August 9, 2020. The plan includes a drainage system to manage and increase on-site percolation of runoff, including gutters, downspouts, trench drain, catch basins, and sump pump basins, which are directed to the public right-of way and storm drain.

The applicants have submitted a landscaping plan that consists of non-invasive, drought tolerant vegetation. While the proposed landscaping consists of non-invasive and drought tolerant plants, future landscaping may not consist of such plants. For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). In order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, **Special Condition 5** imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

## **G. 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 12**, which requires that the property owners 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 notice of the restrictions and/or obligations imposed on the use and enjoyment of the land, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

## **H. Local Coastal Program**

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.

## **I. 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 project as conditioned herein incorporates measures necessary to avoid any significant environmental effects under the Coastal Act, and there are no less environmentally damaging feasible alternatives or mitigation measures. Therefore, the proposed project is consistent with CEQA.

5-20-0503 (802 Strand Investments, LLC)

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

Coastal Development Permit Application No. 9-20-0503 and associated file documents.

City of Hermosa Beach Cerfield Land Use Plan (LUP)