

CALIFORNIA COASTAL COMMISSION

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W16a

5-20-0485-REC (Lopez)

August 11, 2021

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California Coastal Commission
c/o South Coast District
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802

W16a

Re: 2654 and 2666 The Strand, Hermosa Beach (CDP Application No. 5-20-0485-REC)
Meeting Date: August 11, 2021; Agenda Item No. W16a
Request for Reconsideration

Dear Honorable Commissioners:

This office represents Johnny and Elizabeth Lopez, Trustees of The Lopez Trust (“Lopez” or “Applicant”), the owners of property located at 2654 and 2666 The Strand in Hermosa Beach (the “Property”). This project originally came before the Coastal Commission (the “Commission”) on May 13, 2021. It involves the demolition of an existing single-family residence at 2654 The Strand, the merger of two single-family zoned lots (2654 and 2666 The Strand), the addition to an existing single-family residence at 2666 The Strand across the two merged lots, and an accessory dwelling unit. For the reasons contained in this correspondence and to be presented at the August 11, 2021 meeting, Lopez hereby requests reconsideration of the Commission’s action to deny Coastal Development Permit No. 5-20-0485.

This request for reconsideration is made in accordance with Public Resources Code §30627 and California Code of Admin. Regs., Title 14, §13109.2 and on the grounds there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the initial decision.

A. PROJECT BACKGROUND

The Property is situated at two adjacent beachfront lots, 2654 and 2666 The Strand, located in the City's R-1 (Single-Family Residential) Zone. Together, the two lots equal 6,977 square feet¹ and are separated from the almost 500' wide sandy beach by a pedestrian walkway. (Please see Exhibit 1 to the July 29, 2021 Staff Report (the "Staff Report.")) The areas to the north and south of the Property along The Strand are developed with a preponderance of single-family homes, all zoned R-1. To the east of the Property, across Hermosa Avenue, is a mix of single-family and multi-family residences.

Lopez purchased 2666 The Strand in 2013 as a newly constructed 7,008 square foot single-family residence², and lives there with his wife, four children, and extended family. When Lopez's elderly neighbor at 2654 The Strand passed away in 2017, the Lopez family was presented with the opportunity to purchase that home which was originally constructed in 1932. They did so, at a price of \$9,200,000. Lopez purchased with the intent to demolish the 3,180 square foot residence on 2654 The Strand³, merge the lot with 2666 The Strand, and remodel and expand the 2666 single-family residence across the two contiguous lots in order to better accommodate their large family. The decision was also made to add a new accessory dwelling unit ("ADU").

Lopez hired reputed South Bay architect Louie Tomaro, the same architect who designed the home at 2666 The Strand, to draw up plans for the expanded residence. The City reviewed the plans and confirmed that they conformed to the City's zoning and development standards. Lopez filed an application with the Coastal Commission for the demolition of 2654 The Strand and the renovation of and addition to 2666 The Strand. The proposed new construction would result in an expanded, two-story over basement, 11,328 square foot single-family residence over two contiguous lots that incorporates a 798 square foot ADU, as well as two enclosed parking spaces and three driveway parking spaces.

As explained by the Applicant's representative at the May 2021 Commission meeting, the single-family residence was designed to comply with all laws, policies, and guidelines that are in effect today. Present laws allow by-right a single-family residence in the R-1 zone, and do not prevent a lot merger to accommodate a larger single-family residence so long as all development standards are met. Furthermore, there are no laws that require an applicant to maintain single-family residential density with separate single-family homes, one per legal lot. In this case, there are no laws that even require the replacement of a demolished single-family home with another housing unit such as an ADU, even though there is one proposed in this case. And finally, there are no

¹ 2666 The Strand is 4,380 square feet and 2654 The Strand is 2,597 square feet. The current minimum R-1 parcel size is 4,000 square feet, although the smaller lot at 2654 The Strand is considered legally non-conforming. (Hermosa Beach Zoning Code, Section 17.52 *et seq.*)

² The residence at 2666 The Strand was constructed in or around 2012 pursuant to Coastal Development Permit No. 5-11-233. That CDP, approved on consent at the Commission's December 2011 meeting, authorized the demolition of an existing duplex and construction of a new, 25 foot high, 7,393 square foot two-story over basement single-family residence.

³ The 89-year old residence has surpassed the expected lifespan for residences.

applicable laws that require an applicant to *increase* the housing stock. Here, the subject project objectively complies with the City Land Use Plan (“LUP”) and Chapter 3 Policies.

The Commission denied the project at its May 13, 2021 meeting and, on June 9, 2021, the Applicant submitted the subject request for reconsideration pursuant to Section 13109.2 of the regulations.

A. RECONSIDERATION IS PROPER BECAUSE THE COMMISSION MADE ERRORS OF LAW THAT HAVE A STRONG CHANCE OF ALTERING THE DECISION

Section 30627 of the Public Resources Code provides the permissible grounds for reconsideration of a decision to deny a permit application:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the initial decision. (Pub. Res. Code §30627(b)(3).)

In this instance, the Commission made errors of law that have the potential of altering the Commission’s May 13, 2021 decision.

B. LAWS INTENDED TO ADDRESS THE HOUSING CRISIS DO NOT APPLY TO THE DEMOLITION OF A SINGLE-FAMILY RESIDENCE

The Property is situated at two adjacent beachfront lots, 2654 and 2666 The Strand, located in the City’s R-1 (Single-Family Residential) Zone. Together, the two lots equal 6,977 square feet⁴ and are separated from the almost 500’ wide sandy beach by a pedestrian walkway. The project proposed at the May 13, 2021 Commission meeting entailed a lot merger and new construction that would result in an expanded, two-story over basement, 11,328 square foot single-family residence over two contiguous lots that incorporates a 798 square foot ADU, as well as two enclosed parking spaces and three driveway parking spaces (the “Original Project”).

Unlike other projects recently before the Commission that involve the demolition of two or more units, the Housing Crisis Act (or SB 330) does not apply to the remodel of an existing single-family home and the construction of an ADU. The Commission’s recent “we must maintain density” mantra is not applicable to this Original Project. Here, the property is within the R-1 zone and only involves the demolition of one single-family home constructed in 1932. This is important because the State’s housing laws, including SB 330, do not apply to the demolition of a single-

⁴ 2666 The Strand is 4,380 square feet and 2654 The Strand is 2,597 square feet. The current minimum R-1 parcel size is 4,000 square feet, although the smaller lot at 2654 The Strand is considered legally non-conforming. (Hermosa Beach Zoning Code, Section 17.52 *et seq.*)

family home. The Commission's argument, which dismisses an ADU as not an equivalent replacement for the demolition of a single-family home, is unsupported by the law.⁵

SB 330 defines a "housing development project" as the construction of two or more housing units. A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development has to consist of more than one unit to qualify under the Housing Accountability Act (Gov. Code, § 65589.5, subd. (h)(2).) (Please see the September 15, 2020 Memorandum from the Department of Housing and Community Development, previously provided.) SB 330 does not apply to the demolition of a single-family residence, nor does it apply to the new construction of one residential unit. (*Id.*) ***In fact, Lopez is not required to provide any replacement dwelling unit for the demolition of the single-family home, but has voluntarily done so here.***

The Commission's "no density loss" argument as applied to the Original Project is the most extreme overextension of this unwritten "policy" to date. While the density argument might be more tenable for a project located in any of the City's higher density residential zones⁶, or for a project that involved the demolition of more than one dwelling unit, it is not legal or appropriate here. The Commission cites to no local or State law, including Chapter 3 policies, that prohibit the Original Project. The practical effect of the Commission's action is to frustrate the Lopez plans in order to maintain one additional house in the price range of \$10,000,000 - \$12,000,000. No law or policy in the Coastal Act or elsewhere extends protection to the most expensive houses in the State. The laws in place today clearly allow for the merger of two R-1 zoned lots and the expansion of a single-family home across the two lots, so long as development standards are met. This is demonstrated by the Commission's own prior actions approving similar projects in the past⁷ and, until there is a change to those laws and regulations, the Original Project should be afforded the same treatment.

The Coastal Act is clear that the Commission may not deny or condition a CDP in order to implement housing policies or programs. That role has been and remains a local government function in the Coastal Zone under the detailed requirements of Government Code § 65590.

⁵ Staff admits on page 10 of its Staff Report for the May 2021 hearing that SB 330 is not the standard of review for the Original Project.

⁶ There are three residential zones along The Strand – low density, medium density, and high density.

⁷ *See* CDP No. 5-11-243 for 2408 The Strand approving the demolition of an existing duplex and construction of a new, 25 foot high, 10,517 sq. ft. single-family residence over two lots. *See* Permit Exemption No. 5-115-0349-X for 2909 The Strand approving the remodel of an existing 9,666 square foot residence over two lots.

C. THE COMMISSION IMPROPERLY DISREGARDED THE HERMOSA BEACH CERTIFIED LAND USE PLAN

As a matter of law, the Commission cannot certify a Land Use Plan (“LUP”) and then disregard its terms, essentially rendering the certification meaningless. The Commission is obligated to follow the terms of the LUP it certified, unless and until the time such LUP is amended.

The Original Project is compatible with the character of The (R-1) Strand neighborhood, as required by Section 30251. Section 17.08.030 of the City’s Zoning Code contains the development standards for the R-1 zone. These development standards ensure that projects are consistent with community character and the corresponding land use designation which, in this case, is the City’s lowest level of residential density.

The Original Project complies with all of the City’s objective development standards and is entirely consistent with The Strand’s community character: it is below the maximum 25’ height permitted, it meets the front, side, and rear yard setback requirements, it achieves the minimum 4,000 square foot lot area, and it is under the maximum 65% lot coverage allowed.

R-1 DEVELOPMENT STANDARDS

Maximum Height (Feet)

Allowed	Proposed
25’	25’ ⁸

Maximum Lot Coverage (Percentage)

Allowed	Proposed
65%	64.94%

Minimum Usable Open Space (Square Feet)

Required	Proposed
400	931

Post-merger, the resulting lot size would be 6,977 square feet. It should be noted that 2654 The Strand is a legal nonconforming lot at 2,597 square feet, which is consistent with the certified LUP. (Section 17.52 *et seq.*) The new expanded single-family home, including the new ADU, would rearrange the above and below-grade square footage, resulting in a net decrease of above-grade square footage and a net increase in below-grade square footage.

ABOVE GRADE VS BELOW GRADE

	Existing	Proposed
Above Grade	7,605 sq. ft.	6,927 sq. ft. (-678 sq. ft.)
Below Grade	2,583 sq. ft.	4,401 sq. ft. (+1,818 sq. ft.)

⁸ However, as measured from the centerline of frontage road, the Project is only 23’.

As such, the Original Project’s above-grade square footage would only be 6,927 square feet, which is less than the existing 7,605 square feet, in keeping with the community character and consistent with the Commission’s previous approvals of similar homes along The Strand.

Finally, the community character the Commission has historically found acceptable along The (R-1) Strand includes generally equivalent ratios between house and parcel size.

RATIO OF HOUSE TO PARCEL SIZE

Address	House Size	Parcel Size	Ratio
2666 The Strand	7,393	4,380	1.68
2634 The Strand	4,341	2,777	1.56
2826 The Strand	8,212	4,635	1.77
3001 The Strand	5,931	3,861	1.54
3035 The Strand	5,178	2,936	1.76
3124 The Strand	6,162	2,724	2.26
3222 The Strand	4,334	2,443	1.77
3320 The Strand	3,670	2,144	1.71
3411 The Strand	3,850	1,948	1.98
3485 The Strand	2,849	1,779	1.60

As illustrated, the Original Project’s house to parcel size ratio is 1.62, squarely within the range of 1.54 – 2.26 for single-family residences approved by the Commission and clearly consistent with bulk and massing aspects of the community character analysis.

In sum, the Original Project complies with the LUP which sets the standards against which the Commission is obligated to review projects and approve, if consistent.

D. A REVISED PROJECT WOULD ADDRESS AND ELIMINATE THE COMMISSION’S FINDINGS FOR DENIAL

In addition to the errors of law and fact described above, the basis of the subject request for reconsideration is supported by relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the May 13, 2021 hearing on the matter. Prior to May 13, 2021, the Applicant and architect, Louie Tomaro, were simply unable to design a project that dispensed with staff concerns relating to “loss of density.” Following the May 13, 2021 Coastal Commission denial, the Applicant and architect Louie Tomaro crafted new conceptual plans for 2654 The Strand. The new plans eliminate the lot merger altogether and restrict all development to 2654 The Strand, demolishing the existing single-family residence and constructing a new 3,030 square foot single-family residence, attached two car garage, and swimming pool (the “Revised Project”).

The single-family residence at neighboring 2666 The Strand will remain as designed and constructed, in compliance with previously approved CDP No. 5-11-233. A future Special Condition No. 1 could govern the development at 2654 The Strand and explicitly exclude any

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development at 2666 The Strand. Commission approval of the Revised Project would be subject to both standard and special conditions. Should the Commission grant the subject request for reconsideration, the Applicant is prepared to present Revised Project plans and proposed special condition language for the Commission's consideration at the future rehearing of the Applicant's CDP.

The Applicant respectfully requests that the Commission grant the Applicant's request for reconsideration.

Sincerely,

GAINES & STACEY LLP

By *Sherman L. Stacey*

SHERMAN L. STACEY

SLS:ck

Enclosures