

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



W16a

Filed: 08/26/20
180th Day: N/A
Staff: A. Spencer-LB
Staff Report: 07/29/21
Hearing Date: 08/11/21

STAFF REPORT: REQUEST FOR RECONSIDERATION

Application No.: 5-20-0485-REC

Applicant: Johnny Lopez

Agent: Srour and Associates

Location: 2654-2666 The Strand, Hermosa Beach, Los Angeles County (APNs: 4181-037-009; 4181-037-010)

Project Description: 1) Lot merger of two contiguous lots at 2654 and 2666 The Strand, each developed with a single-family residence; 2) demolition of an existing 3,180 sq. ft. single-family residence at 2654 The Strand; and 3) construct an addition to the existing 7,002 sq. ft. single-family residence at 2666 The Strand, resulting in a 11,328 sq. ft. single-family residence with a 798 sq. ft. attached ADU across two lots.

Commission Action: On May 13, 2021, the Commission denied Coastal Development Permit Application Number 5-20-0485.

Staff Recommendation: Reject the request for reconsideration

SUMMARY OF STAFF RECOMMENDATION

On May 13, 2021, the Commission denied a Coastal Development Permit (CDP) application for the demolition of a 3,150 sq. ft. residence at 2654 The Strand, a lot merger of 2654 The Strand and 2666 The Strand, and an addition of a 7,008 sq. ft. residence on 2666 The Strand to result in an 11,328 sq. ft. residence that spans across 2666 The Strand and 2654 The Strand. In a letter dated June 9, 2021, Sherman Stacey, the applicant's authorized agent, submitted a letter to the Commission highlighting four factors to justify reconsideration of the previously denied project. First, Mr. Stacey contends that the project should be reconsidered because the Commission made errors of law that have a strong chance of altering the decision. Second, Mr. Stacey contends that the laws intended to address the housing crisis do not apply to the demolition of a single-family residence. Third, Mr. Stacey contends that the Commission improperly disregarded the certified Land Use Plan (LUP) for the City of Hermosa Beach. Finally, Mr. Stacey notes that a revised project to maintain two residences on two separate lots would eliminate the Commission's finding for denial.

Upon review of the applicant's submittals, staff recommends that the Commission deny the request for reconsideration on grounds that: (1) no new relevant evidence has been presented which, in the exercise of reasonable diligence, could not have been presented at the hearing on the permit, and (2) there has been no error of fact or law which has the potential for altering the Commission's decision.

Procedural Note:

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of the application, or of any term or condition of a coastal development permit which has been granted. [Title 14 Cal. Code of Regulations Section 13109.2.] The regulations also state (*id.* at § 13109.4) that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627, which states, *inter alia*:

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 Commission's initial decision.[Cal. Pub. Res. Code § 30627(b)(3)]

Section 30627(b)(4) of the Coastal Act states that the Commission "shall have the discretion to grant or deny requests for reconsideration."

The applicant submitted a request for reconsideration of the Commission's May 13, 2021 decision on June 9, 2021, stating the alleged grounds within the 30-day period

following the final vote, as required by Section 13109.2 of the regulations. If a majority of the Commissioners present vote to grant reconsideration, the permit application will be scheduled for a future public hearing, at which the Commission will consider it as a new application. [Title 14, Cal. Code of Regs., Section 13109.5(c).]

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	4
II. FINDINGS AND DECLARATIONS.....	4
A. Project Description and Background	4
B. Project History.....	5
C. Applicant’s Grounds for Request for Reconsideration	5
D. Analysis of Request for Reconsideration	6
E. Conclusion	10
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS	10

EXHIBITS

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

[Exhibit 2 – Applicant’s Request for Reconsideration](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission grant reconsideration of Coastal Development Permit No. 5-20-0485.

Staff recommends a **NO** vote on the motion. Failure to adopt the motion will result in denial of the request for reconsideration 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 denies the request for reconsideration of the Commission's decision on coastal development permit no. 5-20-0485 on the grounds that there is no relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has an error of fact or law occurred which has the potential of altering the initial decision.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The project site consists of two rectangular-shaped ocean-fronting residential lots located at 2654 and 2666 The Strand in Hermosa Beach ([Exhibit 1](#)). Both lots are designated as Low-Density residential in the City's certified Land Use Plan (LUP), which corresponds to the R-1 zone in the City's zoning code. The lot located at 2654 The Strand is 2,597 sq. ft. in size and is developed with a three-story, 3,180 sq. ft. single-family residence. The lot located at 2666 The Strand is 4,380 sq. ft. in size and is developed with a 7,008 sq. ft. single-family residence. The applicant proposes to demolish the 3,180 sq. ft. residence at 2654 The Strand, merge the lots at 2654 The Strand and 2666 The Strand into one 6,977 sq. ft. lot, and construct additions to the existing 7,008 sq. ft. residence at 2666 The Strand. The project would result in an 11,328 sq. ft. single-family residence that would span both lots. The single-family residence would include a 798 sq. ft. attached accessory dwelling unit (ADU). The project also includes 575 cubic yards of grading and drought-tolerant, non-invasive landscaping ([Exhibit 2](#)).

The residence at 2654 The Strand was constructed in 1932, prior to passage of the Coastal Act. There is no known CDP history for this lot, but it does appear that the residence has always functioned as a single-family residence. The residence at 2666

The Strand was constructed in 2013 pursuant to CDP No. 5-11-233. There is no further permit history on this site.

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.

B. Project History

Commission staff prepared a staff report for the March 2021 hearing recommending denial of the proposed project. After the staff report was published, the applicant requested a postponement in order to allow additional time to consult with staff on outstanding issues regarding housing unit retention. Commission staff held discussions with the applicant to consider development alternatives, including an alternative that did not merge the lots and maintained two houses, but the applicant ultimately decided to move forward with the project as originally proposed. A new hearing date for the project was scheduled for May 13, 2021. The only correspondence received before the new hearing date was from the applicant, who registered a detailed objection to staff's recommendation.

During the May 13, 2021 hearing, the Commission largely supported staff's recommendation of denial. Several Commissioners cited a concern with the size of the proposed residence as compared to neighboring residences within the vicinity, as well as the proposed lot merger's role in exacerbating the trend of removing housing units. Commissioners noted that maintaining two separate residences for extended family should have been considered as a development alternative.

The Commission also directed several questions to Commission staff. One question concerned the nexus between lot mergers and the Coastal Act policies. Staff clarified that while lot mergers are not necessarily inconsistent with the City's LUP, they can – taken cumulatively – reduce development potential in urbanized areas that can accommodate development and instead force development to extend into pristine undeveloped areas, inconsistent with Coastal Act section 30250. Another question was raised in regard to the certified LUP's policies regarding housing stock. Staff verified that there was a LUP policy, Policy IV.B, which memorializes the City's intent to promote the preservation of the City's existing housing stock.

At the conclusion of the public hearing, the Commission voted unanimously to deny the CDP application for the proposed project.

C. Applicant's Grounds for Request for Reconsideration

In a letter dated June 9, 2021, Sherman Stacey, the applicant's authorized agent, submitted a letter to the Commission highlighting four factors to justify reconsideration of the previously denied project. First, Mr. Stacey contends that the project should be reconsidered because the Commission made errors of law that have a strong chance of

altering the decision. Second, Mr. Stacey contends that the laws intended to address the housing crisis do not apply to the demolition of a single-family residence. Third, Mr. Stacey contends that the Commission improperly disregarded the certified LUP for the City of Hermosa Beach. Finally, Mr. Stacey notes that a revised project to maintain two residences on two separate lots would eliminate the Commission's finding for denial.

D. Analysis of Request for Reconsideration

As stated on page two of this report, the Commission's decision whether to accept or deny the applicant's reconsideration request hinges on whether it determines that either there is relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter, or an error of fact or law has occurred that has the potential of altering the Commission's initial decision. [Cal. Pub. Res. Code § 30627(b)(3)].

The following analysis addresses separately each of the four issues that the applicant asserts were subject to erroneous statements, as a basis for reconsideration, as set forth in the previous section and the applicant's request dated June 9, 2021 (**Exhibit 3**).

Issue 1: Reconsideration is proper because the Commission made errors of law that have a strong chance of altering the decision.

The applicant asserts that the Commission made errors of law that have the potential of altering the Commission's decision to deny the above-described project. Specifically, in Issues 2 and 3, the applicant asserts that the Commission misinterpreted the state's Housing Crisis Act (SB 330) and ignored the City of Hermosa Beach's certified LUP in its decision to deny the proposed project. However, as it will be detailed below, the Commission correctly applied the law to this project. The standard of review for this project is the Chapter 3 policies of the Coastal Act. Although the certified LUP can be used as guidance (which the Commission did in fact do), the LUP does not itself comprise a complete certified Local Coastal Program (LCP) and, thus, does not serve as the standard of review for this project. Similarly, SB 330 does not, and did not, serve as the standard of review for this project.

Issue 2: Laws intended to address the housing crisis do not apply to the demolition of a single-family residence.

The applicant asserts that the state's housing laws - including, and specifically, SB 330 - do not apply to the demolition of a single-family residence, nor do they apply to the remodel of an existing single-family residence and the construction of an ADU. The applicant further asserts that the Commission's "no density loss argument" is an overextension of its unwritten policy. Finally, the applicant contends that the Coastal Act prohibits the Commission from denying or conditioning a CDP in order to implement housing policies or programs.

The Commission's findings for the proposed project state that the Housing Crisis Act does not apply to the Commission or modify the Coastal Act. The Commission did not

use the Housing Crisis Act as a basis of denial for the project. Instead, the Commission found that the proposed project was not consistent with Sections 30250, 30251, and 30253 of the Coastal Act, which state, in relevant part:

Coastal Act Section 30250:

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

Coastal Act Section 30251:

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.

Coastal Act Section 30253: 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...
- (d) Minimize energy consumption and vehicle miles traveled...

In its consideration of the project, the Commission found that the permanent removal of one residential lot through a lot merger permanently eliminates the opportunity to maintain a full housing unit onsite and cumulatively eliminates the possibility to further supplement housing opportunities in the area through the development of additional rentable ADUs and JADUs. This is inconsistent with Section 30250, which encourages

concentrating development in existing developed areas, such as Hermosa Beach, because it would continue a trend in development that cumulatively is reducing housing density and opportunities in Hermosa Beach. Although the proposed 11,328 sq. ft. residence included a 798 sq. ft. ADU, the Commission did not find the ADU to be adequate mitigation for a 3,180 sq. ft. single-family residence, particularly considering that it is difficult to ensure that the ADU is rented out.

The Commission also found the proposed project to be inconsistent with Section 30251 regarding the character of the surrounding area. Commission staff surveyed 21 residences in the vicinity of the project site, including the two subject lots to better understand the character of the area. The survey concluded that the proposed 11,328 sq. ft. single-family residence and 6,977 sq. ft. resulting lot would be more than twice the average residential structure size (4,150 sq. ft) and almost 3 times as large as the average lot size (2,597 sq. ft.).

Furthermore, the Commission does not have an “unwritten policy” that prohibits density loss, as evidenced by the list of approved projects attached as Exhibit E to the applicant’s May 7, 2021 correspondence regarding staff’s recommendation. While the Commission has become increasingly concerned with the observed trend of removing residential units, the Commission has analyzed each project proposing removal of units on a case-by-case basis using the policies of certified LCPs or Chapter 3 of the Coastal Act as the standard of review. In this case, the Commission found the project to be inconsistent with several Chapter 3 policies and did not use SB 330 as a basis for denial.

Issue 3: The Commission improperly disregarded the Hermosa Beach Certified Land Use Plan.

The applicant asserts that the Commission did not adequately apply the City’s certified LUP in its decision to deny the project. The applicant points out that the proposed 11,328 sq. ft. residence is consistent with the R-1 standards listed in the LUP, including the 25-ft. height limit, maximum lot coverage, minimum open space, and ratio of house to parcel size ([Exhibit 2](#)).

As stated above and in the CDP application staff report, the standard of review for this project is the Chapter 3 policies of the Coastal Act. Although the certified LUP can be used as guidance, it is not a standard of review because the City of Hermosa Beach does not have a certified LCP. Staff does not, and did not, contend that the project is inconsistent with the R-1 development standards listed in the certified LUP. However, as stated above and in the Commission’s findings for the CDP application, the proposed development – although allowed by the City – is inconsistent with several Chapter 3 Coastal Act policies that guide overall development in the coastal zone.

Moreover, 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. (emphasis added)

This LUP policy clearly indicates the City's intention to preserve the existing housing stock. The proposed project not only removes one single-family residence from the housing stock, but, through a lot merger and the expansion of one single family residents across both lots, permanently eliminates the ability to reconstruct a new single-family residence on a lot, which is inconsistent with the City's LUP policy cited above. If more projects like the proposed project were approved, then there would be a significant cumulative impact on the availability of housing stock within a developed area able to accommodate it within the coastal zone. The Commission's findings for the project references this policy, which also runs parallel to the Commission's concern with diminishing housing supply in developed areas of the coastal zone able to accommodate such development. However, as stated above and in the Commission's findings, the Commission's basis for denial of this project was inconsistency with the Chapter 3 Coastal Act policies.

Issue 4: A revised project would address and eliminate the Commission's findings for denial.

Finally, the applicant asserts that there is potential for a modified project that could address the Commission's concerns regarding density and eliminate the Commission's basis for a denial recommendation. The modified project involves maintaining the existing residence at 2666 The Strand and replacing the residence at 2654 The Strand, with a new 3,030 sq. ft. single-family residence. The applicant asserts that the modified project – which maintains two single-family residences on two separate lots – is relevant new evidence that could not have been presented during the May 13, 2021 hearing on the proposed project.

The applicant's statement that the option to maintain two residences on two lots could not have been known before the hearing is inconsistent with the facts. In the staff report published for the March and then May hearing on the project, staff analyzed a set of development alternatives that the applicant could have considered on the project site. One of the alternatives cited is the option to construct new single-family residences on each lot to maintain two single-family residences. In fact, Commission staff discussed the possibility of maintaining two single-family residences with the applicant prior to the hearing. After the meeting with staff, the applicant decided to move forward with the project as proposed. The applicant could have easily modified the project to maintain two residences on two lots prior to the hearing. Even if the modified project design was not signed off by the City, the Commission could have imposed a *prior-to-issuance* condition for the local approval before the final CDP was issued.

Moreover, a reconsideration request is not the appropriate method to push forward a new different project. The purpose of a reconsideration request is to determine whether there are demonstrated errors of law or fact or relevant new evidence that could not

have been known at the time of the hearing that could alter the Commission's decision on the project. The applicant has not sufficiently demonstrated that the Commission applied the law incorrectly or the incorrect law. The Commission's decision was based upon Chapter 3 policies of the Coastal Act with the certified LUP as guidance. The applicant also failed to provide relevant new evidence about the proposed project that could not have been known at the time of the hearing. The asserted new evidence that the applicant provides is in fact a new proposal that is substantially different from the originally proposed project. The applicant should submit a new CDP application for the that project, so it can be properly analyzed for consistency with the Chapter 3 Coastal Act policies.

E. Conclusion

There is no relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter. Additionally, no error of law or fact has occurred which has the potential of altering the Commission's initial decision. Consequently, there is no basis for reconsideration, and the Commission denies the applicant's request for reconsideration pursuant to Section 30627(b)(4) of the Coastal Act.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

CDP Application 5-20-0485 and associated file documents

Staff report for CDP Application 5-20-0485, published as Item Th14e for the May 13, 2021 Coastal Commission hearing