

CALIFORNIA COASTAL COMMISSION

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W16d

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-21-0008

Applicant: IRD, LP

Agent: Srour and Associates

Location: 12 The Strand, Hermosa Beach, Los Angeles County
(APN: 4188-002-056)

Project Description: Remodel and add 1,100 sq. ft. to an existing 2,865 sq. ft. single-family residence, resulting in a 3,376 sq. ft. residence with no changes to the structure's height or onsite parking.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to remodel and construct an addition to an existing three-story, 30-ft. tall, 2,865 sq. ft. single-family located at 12 The Strand. The remodel would add 1,100 sq. ft. of living area and result in a 3,976 sq. ft. single-family residence. The residence would retain its 30-ft. height and four onsite parking spaces. No grading or landscaping is proposed for this project. The applicant is also proposing to retain an existing four ft. tall concrete wall adjacent to The Strand walkway and replace an existing tile patio floor with a flagstone tile within a 180 sq. ft. public right-of-way adjacent to The Strand.

The project site is a 2,551 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 two- to three-story single-family and multi-family residences (Exhibit 1). The site is developed with a three story, 30-ft. tall single-family residence, which was permitted pursuant to CDP Waiver 5-86-361-W. The project site is designated in the Hermosa Beach 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 single-family residences and multi-family residences to be developed. Thus, the retention of a single-family residence is an allowable use in 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.

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. These hazards concerns may be exacerbated by sea level rise that is expected to occur over the coming decades. Therefore, the proposed development, on 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. Therefore, in addition to **Special Condition 1**, which requires the applicant to acknowledge that the development approved by this permit is not entitled to shoreline protection and to waive rights to future shoreline protection, the Commission also imposes **Special Condition 6**, which requires the applicant to assume the risks of building in an area subject to coastal hazards.

The project site contains a six-ft. wide, approximately 180 sq. ft. encroachment into the City's right-of-way adjacent to The Strand pathway. According to the project plans, this right-of-way area contains a four-ft. tall concrete wall, a tile patio, and temporary development (such as patio furniture) but does not have any permanent development. However, this development is not consistent with an encroachment permit granted to the then property owner in 1987, which authorized a three-ft. wall and a tile patio. Therefore, the development within the public right-of-way is not authorized. The applicant is proposing to replace the existing tile patio within the City right-of-way with a flagstone tile floor. The City of Hermosa Beach administers the encroachment permit program for the areas between the private property boundaries and the pathway known as The Strand. Homeowners may pay a one-time fee (currently set at \$1,285) to encroach into this area for temporary development, such as patio furniture or landscaping. No permanent development- including accessory structures and additions to the primary residence- are allowed within the City's right-of-way. Under the current

program, an existing encroachment permit is transferrable to a new property owner, provided that the new property owner applies for a permit transfer within 30 days of acquiring the property. The City uses the encroachment permit fees to cover staff time to review, process, and approve encroachment permit applications. In this case, the City's encroachment program does not adequately address the use of public, beach-front land for exclusive private use. Therefore, **Special Condition 2** requires the applicant to provide revised plans that note that any development located between the applicant's property line and The Strand is not approved by this CDP.

To ensure that the project remains consistent with the setback and encroachment program requirements, the Commission imposes **Special Conditions 5 and 6**. **Special Condition 5** requires the applicant to adhere to a minimum five-foot setback from the seaward property line for all habitable and non-habitable portions of the residence, except for ground-level patios, which may extend to the seaward property line. Finally, **Special Condition 6** requires the applicant to submit a new CDP application or amendment application for any future improvements.

As proposed by the applicant and further conditioned by the Commission, the project can be found to be consistent with the Coastal Act Chapter 3 policies. Therefore, Commission staff recommends that the Commission **APPROVE** Coastal Development Permit No. 5-21-0008 with nine special conditions. The motion is on page 5.

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EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Encroachment into Public Right-of-Way](#)

[Exhibit 4 - CoSMoS Analysis](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-21-0008 pursuant to the staff recommendation.

Staff recommends a **YES** vote. 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 of 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. Waiver of Rights to Shoreline Protection

A. By acceptance of this permit, the applicant acknowledges that the development authorized by this permit – including an addition to the single-family residence, – 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 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.

2. Revised Final Plans. PRIOR TO ISSUANCE OF THIS COASTAL

DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, two full-size sets of revised final plans, that substantially conform with the plans submitted to the Commission, titled An Addition & Remodel to a Single Family Residence For 12 The Strand, by Harry Designs, dated 12/09/2020, except that they shall be modified to reflect the following:

A. Mark all development in the City right-of-way with the following statement: “This component of the plans is not a part of the approval, and no coastal development permit has been approved or issued to authorize this component.”

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

3. City’s right to Revoke Encroachment Permit. Approval of this coastal development permit does not include the proposed encroachment and 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.

4. Drainage Plans.

A. The applicant shall undertake development in accordance with the drainage and run-off control plan received by Commission staff, dated January 8, 2021, showing that roof and surface runoff will be captured with downspouts and filtered catch basins, redirected to the municipal storm drain system using a sump pump, and discharged through pop-up emitters.

B. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.

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 applicant 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 stockpiles 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 is 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.

- 6. 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.

- 7. 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.
- 8. Future Development.** This permit is only for the development described in coastal development permit (CDP) No. 5-21-0008. 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. 5-21-0008. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP No. 5-20-0008 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. 5-21-0008 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).
- 9. 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 applicant is proposing to remodel and construct an addition to an existing three-story, 30-ft. tall, 2,865 sq. ft. single-family located at 12 The Strand ([Exhibit 2](#)). The remodel would add 1,100 sq. ft. of living area and result in a 3,976 sq. ft. single-family residence. The residence would retain its 30-ft. height and four onsite parking spaces. No grading or landscaping is proposed for this project. The project also proposes to retain a four-ft. tall concrete wall adjacent to The Strand walkway and replace an existing tile patio within the City right-of-way with a flagstone tile floor.

The project site consists of a 2,551 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 two- to three-story single-family and multi-family residences ([Exhibit 1](#)). The site is developed with a single-family residence which was permitted pursuant to CDP Waiver No. 5-86-381-W. 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 single-family residence and multi-family residences to be developed. Thus, the retention of a single-family residence is an allowable use in 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.

B. Hazards

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

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’s location on an oceanfront lot, as well its location in a low-lying area that is 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.

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 ft. and 6.8 ft. by the year 2100, though there is a potential for 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.

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.

The applicant did not provide a Coastal Hazards Analysis for this project because the project is not a redevelopment project. Instead, staff conducted an independent analysis of the susceptibility of the project site to coastal hazards. First, staff 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 ft. 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 ft. of sea level rise within the project vicinity.

Using the sea level rise estimates listed above, staff used CoSMoS to analyze the vulnerability of the project site to sea level rise impacts. Staff ran the CoSMoS model using a 6.6-ft. 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-ft. 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, the CoSMoS tool is based on a model simulation that may change as more accurate data is compiled and input into the model. The tool also does not account for all variables that could impact the extent and depth of coastal hazards. Moreover, coastal areas are dynamic environments, and it is difficult to predict with certainty how any particular project site will be impacted.

The project site appears to be susceptible to coastal flooding under OPC sea level rise projections. The projected flooding is likely due to ocean water that can possibly travel from King Harbor along the public streets to the site during a 100-year storm. This projected flooding appears to only affect the landward portions of some properties along The Strand (including the project site), as shown on [\(Exhibit 4\)](#). The projected flooding does not extend throughout the whole beach-fronting The Strand area. However, the CoSMoS models show that the flooding originating at King Harbor is exacerbated with sea level rise.

Therefore, the proposed 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. The structure itself was built in 1987 pursuant to CDP Waiver 5-86-361-W. Thus, it is not considered an "existing" structure that may be entitled to shoreline protection pursuant to Section 30235 of the Coastal Act. The proposed improvements are also not entitled to shoreline protection, and the Commission imposes **Special Condition 1** requiring that the applicant acknowledge that the development approved by this permit is not entitled to shoreline protection and to waive any rights to future shoreline protection. 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 6**, which requires the applicant to assume the risk of development.

As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

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, ...

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30251 of the Coastal Act states:

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.

The nearest vertical public access to the beach is available via two public walkways located approximately 85 ft. south of the project site and 100 ft. north of the project site. The project site is located adjacent to The Strand, an approximately 20-ft. wide public lateral accessway 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 ([Exhibit 1](#)). The Strand extends for approximately four miles, from 45th Street (the border between El Segundo and Manhattan Beach) to Herondo Street (the border between Hermosa Beach and Redondo Beach). There is a short sand wall on the seaward side of The Strand that helps keep sand off of the paved path. The portion of the right-of-way that is inland of The Strand is approximately five to six ft. wide and has been developed by homeowners pursuant to a City-operated encroachment program. In this case, there is a 30ft. long by 6-ft. wide, approximately 180 sq. ft. area of the City's right-of-way between the subject property and The Strand walkway. According to the project plans, this area is currently developed with a tile patio, patio furniture, and a four-ft. tall concrete wall that abuts The Strand walkway ([Exhibit 3](#)). These improvements were subject to an encroachment permit agreement in 1987 when the single-family residence was constructed. The agreement further states that the encroachment permit terms would not be held in perpetuity and would not transfer when the property changes ownership. The current applicant is not the owner who received the original encroachment permit in 1987. Additionally, the 1987 encroachment permit agreement allowed for a three-foot wall and tile patio. The current development is not consistent with the development authorized under the 1987 encroachment permit. Therefore, any authorization under that agreement is no longer in effect. The applicant filed for an encroachment permit to retain the short concrete wall and construct a new patio floor tile (detailed below) in August 2021.

As mentioned above, homeowners have developed five- six-ft. wide portions of The Strand public right-of-way under the City's encroachment permit program. The encroachment permit program is not part of the City's certified LUP. In the City's right-of-way, the applicant is proposing to replace the tile patio with a flagstone tile patio. The proposed improvement in the City's right-of-way would have a shallow foundation that can be removed if it becomes necessary to do so in the future. For this project, the one-time encroachment fee was \$1,269¹ plus an additional 7% processing fee (\$88.83) for a total of \$1,357.83, and the applicant has provided evidence of payment to the encroachment permit program in 2021. Staff recently received more information on the use of the fees that are paid to the encroachment program. According to the City, the fees are used for covering staff time for engineers to review, process, and approve the encroachment permit application (including plan check, plan check revisions, and an

¹ The fee increases by 2.5% each year.

inspection of the encroachment area). The City has confirmed that no portion of the fee funds public access benefits to mitigate for the loss of public land. The Coastal Act's emphasis on public access strongly discourages policies and programs that grant certain private individuals exclusive use of public lands, particularly when coastal beaches and beach adjacent recreation areas are expected to diminish considerably over time as a result of sea level rise. Individually and cumulatively, the private encroachments into the City's right-of-way have the potential to make it more difficult to relocate The Strand walkway landward in the future, if it becomes necessary to do so due to sea level rise. Therefore, based on the information received from City about the program, staff determined that the fee does not appear to be proportionate to the value of exclusive private use of the public lands, and since the fee does not go towards any public benefit, the private use of the public land is not properly mitigated by the encroachment permit fee. In addition, the private use of the City's right-of-way is inconsistent with Section 30221 of the Coastal Act to protect oceanfront land suitable for recreational use; therefore, **Special Condition 2** requires the applicant to submit revised final plans noting that the proposed development in the City's right-of-way is not authorized pursuant to this CDP. In addition, **Special Condition 3** acknowledges the City's right to revoke its encroachment permit to construct public improvements within the City's right-of-way.

The project's location adjacent to the beach may cause adverse impacts to coastal views and public access. Section 13250 of Title 14 of the California Code of Regulations 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. However, for the residences adjacent to The Strand, which are between the beach and the first public access road parallel to the beach, 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. In this case, the applicant is proposing an addition of more than 10 percent of the structure's current floor area. Therefore, the project does require a CDP and the Commission imposes **Special Conditions 7 and 8**. **Special Condition 7** requires the applicant to adhere to a minimum five-foot seaward setback from the property line for all habitable and non-habitable portions of the residence, except for ground-level patios. Finally, **Special Condition 8** 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 14 CCR Section 13250 in order to adequately assess the potential impacts to these coastal resources.

As proposed and conditioned, the proposed development will not have any new adverse impacts on public views and access to and along the coast or nearby recreational facilities. Thus, as conditioned, the proposed development conforms to Sections 30210, 30211, 30212, 30221 and 30251 of the Coastal Act.

D. 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 waters 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 ability 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 5**, 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 applicant to remove any and 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 address post construction water quality impacts, the applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. Roof and surface runoff will be managed onsite through the use of area drains and catch basins to direct water flow to the municipal storm drain system. The Commission imposes **Special Condition 4**, which ensures that the project conforms to the drainage and run-off control plan received on January 8, 2021.

The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters in order to maintain the biological productivity and the quality of coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. 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 9**, which requires that the property owner 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.

F. Local Coastal Program (LCP)

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a CDP 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 Land Use Plan 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.

G. California Environmental Quality Act

In this case, the City of Hermosa Beach is the lead agency the purposes of CEQA. The City of Hermosa Beach determined that the proposed development is exempt under Section 15303(a), which exempts construction of a single-family residence in a residential zone from CEQA requirements.

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect, individual and cumulative, that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-21-0008 and associated file documents.