

CALIFORNIA COASTAL COMMISSION

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



W16e

Filed: 04/2/21
180th Day: 9/29/21
Staff: C. Pereira – LB
Staff Report: 8/26/21
Hearing Date: 9/8/21

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-21-0076

Applicant: OFIPLEX LLC

Agent: Srour and Associates (Attn: Brandon Straus)

Location: 44 The Strand, Hermosa Beach, Los Angeles County
(APN: 4188-002-034)

Project Description: Demolition of an existing 29' 8"-high, two-story, 2,300 sq. ft. duplex and construction of a new, 29' 10"-high, three-story, 4,573 sq. ft. duplex and a 932 sq. ft. 4-car garage on a 3,595 sq. ft. lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish an existing, 29' 8"-high, two-story, 2,300 sq. ft. duplex (one unit is 654 sq. ft and the other is 1,646 sq. ft.) and construct a new, 29' 10"-high, three-story, 4,573 sq. ft. duplex (one unit is 752 sq. ft. and the other is 3,821 sq. ft.) and a 932 sq. ft. 4-car garage on a 3,595 sq. ft. beachfront lot. The units have separate exterior entrances and there is no interior ingress/egress between the two units. The proposed 752 sq. ft. unit is located on the first floor, has a wall of windows on its seaward side, its own two-car tandem garage, a living room, bedroom, kitchen, and a storage room. Non-invasive, drought tolerant landscaping is proposed for the project. Proposed grading includes 140 cubic yards of cut.

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. The R-3 zone

allows single-family residences, attached/detached multiple-family dwelling units, single-room occupancy facilities (up to six units), and condominium developments (consistent with the City's condominium ordinance). The majority of the project site's surrounding parcels accommodate 2 to 3-story single family and multi-family residences. The current duplex on-site also complies with the certified LUP's minimum lot area per dwelling unit development standards: a lot size of 3,595 sq. ft. and a minimum lot area per unit of 950 sq. ft. allows the subject site to accommodate up to three on-site residential units. Under the City's uncertified zoning code, the minimum lot area per dwelling unit for this site is 1,320 sq. ft., which would only allow two units to be developed on the site. Therefore, the proposed development, replacing a duplex with a duplex, is consistent with the certified LUP and the uncertified zoning code.

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 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. Therefore, the Commission imposes **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 2**, which requires the applicant to assume the risks of building in an area subject to coastal hazards.

Large portions of the City's right-of-way, adjacent to The Strand walkway, have approximately 5-6 ft. of private encroachments, that have been developed by adjacent homeowners, many of which have received encroachment permits through the City's encroachment permit program. The encroachment permit program is not part of the City's certified LUP. The project proposes to maintain a 45" long by 5'7" wide, approximately 252 sq. ft., private encroachment area into the City's right-of-way adjacent to The Strand walkway and improve it with new hardscaping (nonpermeable wood flooring), a planter with drought-tolerant plants, permeable landscaping, a gate, and a low wall. The applicant has provided evidence of payment to the encroachment permit program in 2020; however, staff recently received more information on the use of the fees that are paid to the encroachment program and 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. 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 upon 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 3** 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.

The proposed structure is set back five feet from the seaward property line on all three levels and 4.5 feet from the side yard property lines, which is consistent with the certified LUP's setback requirements and would not obstruct the public's ability to access and travel along The Strand walkway. To ensure that the project remains consistent with the setback and encroachment program requirements, the Commission imposes **Special Conditions 4, 5, and 6**. **Special Condition 4** memorializes the City's authority to revoke its encroachment permits if The Strand walkway must be relocated landward due to coastal hazards or to construct public access and recreation improvements within the public right-of-way. **Special Condition 5** 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 6** requires the applicant to submit a new CDP application or amendment application for any future improvements.

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.

The Commission certified the City's LUP in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the standard of review for this project is Chapter 3 of the Coastal Act and the certified Land Use Plan (LUP) for Hermosa Beach provides guidance.

Commission staff therefore recommends that the Commission **APPROVE** coastal development permit application 5-21-0076. The motion is 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 Location 10
 - B. Public Access and Views 11
 - C. Water Quality 13
 - D. Hazards 15
 - E. Deed Restriction 21
 - F. Local Coastal Program (LCP) 21
 - G. California Environmental Quality Act 21
- APPENDIX A – SUBSTANTIVE FILE DOCUMENTS 22

EXHIBITS

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

[Exhibit 2 – Project Plans and Photographs](#)

[Exhibit 3 – CoSMoS Analysis](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-21-0076 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 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. 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 duplex, attached garage, foundations, and patio within the subject property – 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 onto public trust lands would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval.

2. Assumption of Risk. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards including but not limited to waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the permittees 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.

3. 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 "44 The Strand", by Starr Design Group, Inc. Design + Development, dated 1/12/21, 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.

4. 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.

5. 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.

6. Future Development. This permit is only for the development described in coastal development permit (CDP) No. 5-21-0076. 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. 5-21-0076. Accordingly, any future improvements to this structure authorized by this permit shall require an

amendment to CDP No. 5-21-0076 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. 5-21-0076 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).

7. Water Quality, Drainage and Landscaping Plans.

A. The applicant shall undertake development in accordance with the drainage and run-off control plan received by Commission staff, dated February 5, 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. 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 applicant shall incorporate Best Management Practices (BMPs) into the construction and postconstruction phases of the subject development. The applicant has stated that they shall also comply with the applicable water efficiency and conservation measures of the City's adopted CALGreen standards concerning irrigation systems, and efficient fixtures and appliances.

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.

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

A. No demolition or construction material, 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.

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 Location

The applicant is proposing to demolish an existing, 29' 8"-high, two-story, 2,300 sq. ft. duplex (one unit is 654 sq. ft and the other is 1,646 sq. ft.) and construct a new, 29' 10"-high, three-story, 4,573 sq. ft. duplex (one unit is 752 sq. ft. and the other is 3,821 sq. ft.) and a 932 sq. ft. 4-car garage on a 3,595 sq. ft. beachfront lot ([Exhibit 2](#)). The units have separate exterior entrances, and there is no interior ingress/egress between the two units. The proposed 752 sq. ft. unit is located on the first floor, has a wall of windows on its seaward side, its own two-car tandem garage, a living room, bedroom, kitchen, and a storage room. Proposed grading includes 140 cubic yards of cut. Non-invasive, drought tolerant landscaping is proposed for the project.

The subject site is a 3,595 sq. ft., rectangular-shaped lot located 20 ft. inland from the beach and is within a developed urban residential area approximately 0.6 miles south of the Hermosa Beach Pier ([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. The R-3 zone allows single-family residences, attached/detached multiple-family dwelling units, single-room occupancy facilities (up to six units) and condominium developments (consistent with the City's condominium ordinance). The proposed development is permitted within the R-3 zone.

At the November 4, 2020 hearing, the Commission denied a project at the proposed site for the demolition of a 2,300 sq.ft. duplex and construction 3-story, 3,821 sq.ft. single-family home with 752 sq.ft. attached accessory dwelling unit. Now, the applicant is proposing a duplex replacement, as described above. There are two differences between the proposed project in November 2020 and the one proposed now: 1) The second unit (752 sq. ft.) is now labeled as a full unit, instead of an ADU, and 2) the applicant is not proposing an interior ingress/egress between the two units.

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. Public Access and Views

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 a public walkway, approximately 35 ft. south of the subject site. The project site is located adjacent to The Strand right-of-way ([Exhibit 1](#)). The Strand right-of-way 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). The Strand is an approximately 20 ft. wide 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. There is a short sand wall on the seaward side of The Strand that helps keep sand off of the paved path. There is also a short wall on the inland side of The Strand that divides the paved portion of The Strand that the public uses, with the rest of the City's right-of-way that abuts private property. The portion of the right-of-way that is inland of The Strand is approximately five to six ft. wide and is subject to the City's encroachment program. In this case, there is a 45 ft. long by 5'7" wide, approximately 252 sq. ft. area of the City's right-of-way, between the subject property and The Strand walkway. This area currently has brick and concrete flooring, patio furniture, and a short white gate ([Exhibit 2](#)).

As mentioned above, large portions of the City's right-of-way, adjacent to The Strand walkway, have approximately 5-6 ft. of private encroachments, that have been developed by adjacent homeowners, many of which have received encroachment permits through 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 new hardscaping (nonpermeable wood flooring), a planter with drought-tolerant plants, permeable landscaping, a gate, and a low wall ([Exhibit 2](#)). The proposed improvements in the encroachment area have shallow foundations 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 \$1357.83, and the applicant has provided evidence of payment to the encroachment permit program in 2020. 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 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

¹ The fee increases by 2.5% each year.

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. 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 upon the information received from the 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 3** 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.

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 (CCR) provides 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. The proposed development will not create any additional adverse impacts to existing view corridors. Therefore, the Commission imposes **Special Condition 6**, requiring 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 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, and 30251 of the Coastal Act.

C. 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 9**, 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.

For water conservation, any plants in the landscape plan shall be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). The applicant has stated that all landscaping will consist of low water use and non-invasive plants. 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, the Commission imposes **Special Condition 7**, which 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.

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 (SLR) 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.² 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 (2018 CCC SLR 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.”³ 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 risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss.⁴ 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

² <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

³ Page 99

⁴ This range of sea level rise reflects the low emissions scenario and high emissions scenario for a site located within the Santa Monica NOAA tide gauge and a medium-high risk aversion. According to the updated OPC guidance, the medium-high risk aversion scenario should be used when determining a residential structure’s vulnerability to sea level rise hazards.

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 2014.⁵ 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 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

⁵ Ekstrom, J, Moser, S. Vulnerability and Adaptation to Sea Level Rise: An Assessment for the City of Hermosa Beach, September 2014.

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, 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 only allows shoreline protective devices to protect oceanfront development in specific limited situations 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 sandy beach area available for public access and recreation. 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 submitted a Coastal Hazard and Wave Runup Study dated March 6, 2020 prepared by Geosoils, Inc. (GSI) for the subject property. The study concludes that because there is a wide sandy beach (approximately 630 ft. 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 (SLR) ranging from 1.25 ft. to 6 ft. However, as stated above, the most recent projections in the statewide 2018 CCC SLR Policy Guidance indicate that sea levels in this area may rise between 5.5 and 6.8 ft. by the year 2100, and 6.8 ft. of SLR was not analyzed in the applicant's hazards analysis from March 6, 2020. Commission staff requested that the applicant provide a hazard study to account for 6.8 ft. of SLR.

The applicant's response, dated May 11, 2020, stated that the 2018 CCC SLR Policy Guidance does recommend the use of the Medium-High Risk Aversion probability for the year 2095, which, based upon the Santa Monica Tide Gauge, is 6.15 ft. $((6.8 \text{ ft.} + 5.5 \text{ ft.})/2)$. The applicant notes that the averaging assumes that SLR is linear between the years 2090 and 2100, but in reality, it is exponential; therefore, the amount of SLR in the year 2095 is closer to 6.0 ft. than to 6.15 ft. GSI's study used 6 ft. in its original analysis, which the applicant states is based upon more current SLR information. The applicant provided a wave runup calculation using 6.15 ft. of SLR and concluded that, even with 6.15 ft. of SLR, wave overtopping waters will likely not reach the seaward side of the subject property under the extreme design conditions.

With regard to the use of 6.8 ft. of SLR requested by Commission staff, 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 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 2018 CCC SLR 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 project site's vulnerability 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, coastal areas are dynamic environments, and it is difficult to predict with certainty how any particular project site will be impacted.

In addition, the site is susceptible to coastal flooding under OPC sea level rise projections. According to the applicant, 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 ([Exhibit 3](#)). This projected flooding appears to only affect the landward portions of some properties along The Strand (including the project site), as shown on ([Exhibit 3](#)). The projected flooding does not extend throughout the whole beach-fronting Strand area. However, the CoSMoS models show that the flooding originating at King Harbor is exacerbated with sea level rise.

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. The project, which includes the demolition of an existing duplex and construction of a new duplex, constitutes new development. As such, the new duplex is not entitled to shoreline protection, and the Commission imposes **Special Condition 1** requiring 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 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 2**, which requires the applicant to assume the risk of development.

Only as proposed and conditioned can the project be found to be consistent with Section 30253 with regard to coastal hazards.

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

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).)

In this case, the City of Hermosa Beach is the lead agency, and the Commission is a responsible agency for the purposes of CEQA. The City of Hermosa Beach determined that the proposed development is exempt under Section 15303(b), which exempts construction of a duplex in a residential zone from CEQA requirements.

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 or 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 Hazard & Wave Runup Study, 44 The Strand, Hermosa Beach. Dated March 6, 2020.