

**CALIFORNIA COASTAL COMMISSION**

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# F20d

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-22-0022

**Applicant:** Gary Horwitz

**Agent:** Srour & Associates

**Location:** 55 18<sup>th</sup> Street, Hermosa Beach, Los Angeles County  
(APN: 4183-008-022)

**Project Description:** Demolish an existing duplex of two detached homes consisting of a 1,350 sq. ft. unit and a 982 sq. ft. unit, with a 372 sq. ft. garage attached to the smaller unit, and construct a 3-story duplex consisting of a 2,957 sq. ft. unit and a 984 sq. ft. unit, with an attached 2-car garage, an unenclosed guest parking space, and grading (21 cy. of cut and 14 cy. of fill).

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish an existing duplex of two detached homes consisting of a 1,350 sq. ft. unit and a 982 sq. ft. unit, with a 372 sq. ft. garage attached to the smaller unit, and to construct a 30 ft. high, 3-story duplex consisting of a 2,957 sq. ft. unit and a 984 sq. ft. unit, with a 459 sq. ft. attached two-car garage ([Exhibit 2](#)). A total of three parking spaces are proposed, two in the garage and one on the driveway fronting the garage. The existing duplex includes three parking spaces so the proposed project would maintain the amount of on-site parking available. Non-invasive, drought

tolerant landscaping is proposed for the project. The applicant is also proposing seven cubic yards of grading to be exported outside the coastal zone (21 cubic yards of cut and 14 cubic yards of fill). The project site is well-served by public transportation and other amenities and is located in an area that is subject to coastal hazards. The subject application initially proposed a different project design that included construction a 3,000 sq. ft. single-family residence with a 940 sq. ft. attached accessory dwelling unit (ADU), rather than the duplex now proposed. After working with Commission staff, the applicant revised the project design to the duplex project now proposed.

The Commission certified the City of Hermosa Beach's Land Use Plan (LUP) in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for the project, with the certified LUP used as guidance. The primary issue raised by this project concerns the cumulative effects of loss of housing density. The Coastal Act encourages the concentration of new development in already developed areas that can accommodate it to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (Coastal Act sections 30250 and 30253(d)). As the Commission has consistently found, these policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources. In addition, the certified LUP identifies the preservation of existing housing stock as an important objective and states the need to continue the current mix of low, moderate, and high housing densities (LUP Sections IV.B and IV.C). To address these impacts, the Commission staff coordinated with the applicant to revise the project proposed and is recommending several special conditions.

The existing duplex is a conforming structure under the certified LUP; the re-development of a single-family residence would result in the loss of one existing residential unit. The project must be viewed in the context of broader housing trends in the coastal zone as well as the significant housing crisis throughout the State. Evidence before the Commission establishes that the version of the project proposed in the initial application was not an isolated case; rather, just over the past decade, there have been more than 40 projects approved that converted multi-family developments to single-family residences in Hermosa Beach. This has the cumulative effect of reducing density, inconsistent with the above-referenced policies of Chapter 3 of the Coastal Act and the certified LUP.

Although the City's current uncertified zoning code, which is not the standard of review, would prohibit the development of a multi-family residence on this 2,850 sq. ft. lot, a duplex on the subject site would be consistent with the certified LUP. Further, Senate Bill 9 (SB 9), which went into effect on January 1, 2022, requires cities and counties to ministerially approve up to two residential units (i.e., a duplex) on a single-family residential lot except in specific enumerated circumstances. In addition, SB 9 prohibits local governments from imposing objective zoning standards that would have the effect of physically precluding the construction of up to two units on a lot. Thus, Commission staff understands that, effective January 1, 2022, the City of Hermosa Beach is no longer able to enforce its current zoning code that prohibits a duplex on the site, as it

constitutes an objective zoning standard that would have the effect of physically precluding the construction of up to two units. Therefore, Commission staff communicated these circumstances to the applicant, and the applicant agreed to go back to the City for approval of a revised plan that proposed a duplex on the site, as opposed to the originally proposed single-family residence with an ADU in the initial application. The proposed project was revised to a duplex with design modifications to ensure the smaller duplex unit proposed was at least as large as the existing smaller duplex unit on the site (982 sq. ft., as determined by the applicant), and the revised plans were approved in concept by the City of Hermosa Beach on March 16, 2022.

In addition to retaining the number of residential units, maintaining parity between the existing units and the new units is necessary to provide a comparable housing opportunity. In Hermosa Beach, the typical pattern of development for existing duplexes is for one of the units to be significantly larger than the other. Thus, requiring that replacement units be of equivalent size is not necessary. However, to prevent adverse impacts to housing opportunities in the coastal zone, it is necessary to ensure that neither of the new units are smaller than the smaller of the existing units. The final revised plans submitted to the Commission and approved in concept by the Hermosa Beach planning department, incorporate a duplex (two full units) on the site. **Special Condition 5** requires that the smaller of the two units, shall be at least the size of the smaller duplex unit existing onsite (982 sq. ft.). Further, a minimum of three parking spaces shall be provided onsite, and both units shall have vehicular access and separate pedestrian ingress/egress access to the garage, which shall provide shared parking for both units in perpetuity.

Although the project site is not located within the first line of development adjacent to the ocean nor subject to surface flooding from 6.6 ft. of sea level rise with a 100-year storm, sea level rise will cause coastal groundwater tables to rise in this area of Hermosa Beach, potentially emerging from the ground to cause inundation and damage to buried infrastructure, mobilized soil contaminants, and increased liquefaction risk. As new development, the residence is not entitled to shoreline protection under Section 30235 of the Coastal Act. Therefore, staff recommends **Special Condition 2**, 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. Furthermore, **Special Condition 9** requires the applicant to assume the risks of building in an area subject to coastal hazards.

The project proposes to maintain an approximately 30 ft. long by 22 ft. wide, approximately 670 sq. ft., private encroachment into the City's right-of-way located directly in front of the project site and improve it with new development that would include a concrete patio and landscaping. The encroachment area is under a separate lease agreement and is subject to review, approval, and revocation by the City of Hermosa Beach Public Works Department. The applicant has applied for an encroachment permit with the City but have not received the permit at this time. To ensure that the applicant maintains the encroachment permit with the City, which is revocable by the City of Hermosa Beach Public Works Department, staff recommends **Special Conditions 3 and 4**, laying out the applicant's rights and obligations related to

the encroachment. **Special Condition 3** requires, prior to issuance of the permit, the applicant to submit an encroachment plan to be reviewed and approved by the Executive Director and to submit proof of enrollment in the City's encroachment program. In addition, **Special Condition 4** requires the applicant to acknowledge the City's right to revoke the encroachment permit.

Staff recommends the Commission find that the project, as proposed by the applicant and further conditioned by the Commission, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-22-0022 with ten special conditions. The motion and resolution can be found on Page 6.

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## EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – CoSMoS Flooding Analysis](#)

[Exhibit 4 – CoSMoS Groundwater Analysis](#)

[Exhibit 5 – Community Character Analysis](#)

## MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-22-0022 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 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 applicants 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 applicants to bind

all future owners and possessors of the subject property to the terms and conditions.

## **SPECIAL CONDITIONS**

**1. Local Government Approval.** This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of Coastal Development Permit 5-22-0022 shall prevail.

**2. Waiver of Right to Future Shoreline Protective Device.**

A. By acceptance of this permit, the permittees acknowledge that the development authorized by this permit – including demolition of the existing duplex and construction of a new duplex – 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 permittees hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such shoreline protective devices to protect the development approved pursuant to CDP No. 5-22-0022.

B. By acceptance of this Permit, the permittees further agree, on behalf of themselves 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 sea level rise, flooding, groundwater inundation, wave uprush, or other hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of 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.

**3. Encroachments**

A. The applicant proposes to utilize an approximately 670 sq. ft. encroachment area that extends approximately 30 feet along the width of the subject lot and approximately 22 feet into the public right of way. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant must submit an encroachment plan to be approved by the Executive Director. The encroachment plan shall comply with all City regulations regarding allowed encroachments in the public right-of-way.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall also submit evidence, for the review and approval of the Executive Director that the applicant has made the initial payment to the City's encroachment program (i.e. annual payment to City for encroachment.) The applicant and all other successors and assigns shall remain enrolled in the City's public access impact mitigation program (i.e. annual payment to City for encroachment) and make the recurring annual payment so long as the encroachment remains in place.
4. **City's Right to Revoke Encroachment Permit.** Approval of this coastal development permit shall not restrict the City's right and ability to revoke, without cause, the approved City encroachment permit.
  5. **Retention of Two Units On-Site and Parking Spaces.** The development approved by Coastal Development Permit No. 5-22-0022 is for construction of a duplex with the smaller unit at least 982 sq. ft. The permittees and all assigns/successors shall maintain the two separate primary dwelling units with the minimum size for the smaller unit to be no less than 982 sq. ft. in area. At no point may one residential unit be incorporated into the other residential unit or converted to a non-residential use. Ingress and egress (doors) between the two residential units are prohibited. The permittees and all assigns/successors shall maintain a minimum of three (3) parking spaces to be provided onsite and both units shall have vehicular and separate pedestrian ingress/egress access to the garage, which shall provide shared parking for both units in perpetuity
  6. **Future Development.** This permit is only for the development described in coastal development permit (CDP) No. 5-22-0022. 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. 5-22-0022. Accordingly, any future improvements to the structure authorized by this permit shall require an amendment to CDP No. 5-22-0022 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. 5-22-0022 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. **Drainage Plans.**
    - A. The applicant shall undertake development in accordance with the drainage and run-off control plan received by Commission staff on January 11, 2022, showing that roof and surface runoff will be captured with downspouts and filtered catch basins, and redirected to the municipal storm drain system using a sump pump.
    - 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.

**8. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.** The permittees shall comply with the following construction-related requirements:

A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;

B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;

C. 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.

- 9. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittees acknowledge and agree (i) that the site may be in or near a flood-prone low lying area and as such subject to hazards from sea level rise, flooding, groundwater inundation, and wave uprush; (ii) to assume the risks to the permittee 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; and (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable.
- 10. 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.

## **FINDINGS AND DECLARATIONS**

### **A. Project Description and Background**

The applicant is proposing to demolish an existing duplex of two detached homes consisting of a 1,350 sq. ft. unit and a 982 sq. ft. unit, with a 372 sq. ft. garage attached to the smaller unit, and to construct a 30 ft. high, three-story duplex consisting of a 2,957 sq. ft. unit and a 984 sq. ft. unit, with a 459 sq. ft. attached two-car garage ([Exhibit 2](#)). A total of three parking spaces are proposed, two in the garage and one on the driveway fronting the garage. The existing duplex includes three parking spaces so the proposed project would maintain the amount of on-site parking available. Non-invasive, drought tolerant landscaping is proposed for the project. The applicant is also proposing seven cubic yards of grading to be exported outside the coastal zone (21 cubic yards of cut and 14 cubic yards of fill). The project site is well-served by public transportation and other amenities and is located in an area that is subject to coastal hazards.

The subject application initially proposed a different project design that included construction a 3,000 sq. ft. single-family residence with a 940 sq. ft. attached accessory dwelling unit (ADU), rather than the duplex now proposed. After working with Commission staff, the applicant revised the project design to the duplex project now proposed. The smaller unit of the proposed duplex includes a separate entry from the larger unit, multiple windows, two bedrooms, two bathrooms, and a full kitchen combined with a living area, on the second-floor level of the proposed structure. The proposed project, as revised, was approved in concept by the City of Hermosa Beach on March 16, 2022.

The residences were constructed in 1979, after the Coastal Act was passed. Commission staff was not able to locate a CDP for the construction of the duplex, so the existing structures may be unpermitted. Regardless, the proposed project would resolve the potential violation. The subject site is a 2,850 sq. ft. rectangular-shaped lot located in a built-out residential neighborhood in Hermosa Beach. The site is located on a walk-street approximately 350 ft. from the beach. The majority of the project site's surrounding parcels accommodate two- to three-story single family and multi-family homes ([Exhibit 1](#)). The project site is designated in the certified LUP as a Medium-Density Residential lot, which corresponds to the R-2 and R-2B zones in the City's uncertified zoning code. The subject site is zoned R-2B. Pursuant to the LUP, the R-2B zone allows single family dwellings, duplexes, and condominiums and requires a minimum lot area of 1,200 sq. ft. for every dwelling unit.

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. Development**

Section 30250 of the Coastal Act states, in pertinent part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

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

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30253 of the Coastal Act states, in pertinent part:

New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled.

LUP Section IV.B states:

Goals and Objectives

1. To preserve the City's existing diversified mix of age and income groups.
2. To preserve the City's existing diversified neighborhoods.
3. To promote and encourage the conservation, rehabilitation, and maintenance of the City's existing housing stock.

LUP Section IV.C.1 states, in relevant part:

Policy: To continue the current mix of low, moderate, and high housing densities.

Program: The Land Use Element of the General Plan shall continue to define low, medium, and high density residential areas within the City. (See Appendix I.)

Program: The Zoning Code shall continue to define the different building standards for each of the residential zones.

Coastal Act Section 30250 provides that new residential development shall be located in or in close proximity to existing developed areas that are able to accommodate it, or in other areas with adequate public services and where it will not have significant, cumulative adverse effects on coastal resources. Section 30251 requires new development to protect public views to and along the beach and other coastal areas; minimize landform alteration; and be designed consistent with the character of the surrounding area. Section 30253 requires that new development must minimize energy consumption and vehicle miles traveled. As the Commission has found in prior actions, these policies together encourage “smart” growth by locating new development in appropriate areas that minimizes impacts on coastal resources and discourages residential sprawl in more rural or sparsely populated areas that are not adequately developed to support new residential development and where coastal resources could be threatened.<sup>1</sup>

The certified LUP identifies the preservation of existing housing stock as an important objective. Furthermore, the LUP also states the need to continue the current mix of low, moderate, and high housing densities (refer to LUP Sections IV.B and IV.C above). The Commission’s approval of projects that would reduce housing density typically relied on Chapter 3 policies or certified LUP policies relating to the project sites; however, many decisions did not look at the cumulative impacts of loss of housing density in coastal areas or the importance of concentrating development in areas capable of supporting it for purposes of protecting coastal resources on a broader scale. In response to California’s persisting housing crisis, the Commission has become increasingly concerned about the cumulative impacts of development trends that reduce housing density and increase development pressure in other, potentially sensitive, or hazardous areas in the coastal zone.<sup>2</sup>

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

**MEDIUM DENSITY:** 14 to 25 dwelling units per net acre. This category would consist mostly of two-family homes and single-family homes on small lots, including garden apartments, and townhouses. It is intended that any future development in this area shall fall within the specified density range.

The LUP medium-density designation corresponds to the R-2 and R-2B zones in the City’s uncertified zoning code. The subject site is zoned R-2B. The certified LUP also

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<sup>1</sup> Staff reports for CDP No. 5-07-014 (Haugh); CDP No. 5-07-085 (Homes); CDP Appeal No. A-5-MNB-20-0020/A-5-MNB-20-0041 (Corinna Cotsen 1991 Trust); CDP No. 5-20-0541 (South Bay Land Management and Development Company, LLC); CDP No. 5-20-0650 (Smith).

<sup>2</sup> Staff reports for CDP No. 5-20-0541 (South Bay Land Management and Development Company, LLC); CDP No. 5-20-0650 (Smith)

includes the following development standards regarding the minimum lot area per dwelling unit for residential parcels based on the zoning designation:

<b>Zone</b>	<b>Uses</b>	<b>Lot Area per Dwelling Unit</b>
R-1	Single family dwellings, accessory building	1 lot/1 dwelling unit
R-2 R-2B	Single-family dwellings built to R-1 standards; duplexes; condominiums. (For lots less than 30 ft. wide, only a single-family residence)	1,200 sq. ft./1 dwelling unit
R-3	Multiple Dwellings (For lots less than 2,400 sq. ft., only a single-family residence)	950 sq. ft./1 dwelling unit.
R-P	Residential use- develop to R-3 requirements Professional use- subject to Conditional Use Permit	Same as R-3

The current development of the site is consistent with the Medium-Density LUP designation in that two residential units exist on the site. The certified LUP defines medium-density development as consisting mostly of two-family homes and single-family homes on small lots. The existing duplex is consistent with the certified LUP's minimum lot area per dwelling unit development standards (found in Appendix G of the certified LUP): in the R-2B zone, the project site can accommodate two on-site residential units because it exceeds the minimum lot size of 2,400 sq. ft. Therefore, the existing duplex is a conforming structure under the certified LUP. Nevertheless, the City's uncertified Zoning Code prohibits the development of a duplex on this 2,850 sq. ft. lot, as it requires 1,750 sq. ft. of lot area per dwelling unit in the R-2B zone.

In light of the City's uncertified zoning code restriction that prohibits a duplex on the site, the applicant, upon the initial submission of their application and before revising the project to a duplex, proposed to construct a single-family residence with an attached 940 sq. ft. ADU located on the second level of the residence that featured a separate exterior entry (pursuant to the State's ADU requirements), its own kitchen and dining area, two bathrooms, multiple windows, and two bedrooms. As explained above, the existing development is conforming under the certified LUP, with two independent units; therefore, the re-development of a single-family residence would result in the loss of one existing residential unit. These kinds of projects must be viewed in the context of broader housing trends in the coastal zone as well as the significant housing crisis throughout the State. Evidence before the Commission establishes that the project, as originally proposed, is not an isolated case; rather, just over the past decade, the Commission has approved more than 40 projects that converted multi-family developments to single-family residences in Hermosa Beach. This has the cumulative

effect of reducing density, inconsistent with the above-referenced policies of Chapter 3 of the Coastal Act and the certified LUP.

In previous projects, the Commission has allowed the development of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) to mitigate for lost residential units when no other feasible alternative existed.<sup>3</sup> However, the Commission has also found that ADUs are not the equivalent of a full unit that might be lost as a result of redevelopment.<sup>4</sup> Although ADUs can be designed as separate units from the associated single-family residence, an ADU is, by its nature, accessory to the primary residence and is inherently dependent on the single-family residence to serve as a housing unit. ADUs usually share utility lines (power, water) with the associated single-family residence and, except in very limited situations, inapplicable here, cannot be sold separately from the primary residence. This differs from a duplex, where the units are independent of each other, typically have separate utility connections and could potentially be sold independently from one another or held in separate ownership, if converted to condominiums. In addition, a duplex could potentially have at least one additional ADU, thereby increasing density potential. Further, due to their subordinate function, ADUs are more likely to be left vacant or used by the residents of the primary single-family residence, rather than rented out. If, as has been a pattern recently in Hermosa Beach, ADUs are a substitute for primary residential units but are unlikely to be used for housing, then the project, when viewed cumulatively with similar projects in Hermosa Beach, will not concentrate development in existing developed areas and instead will contribute to further urban sprawl, counter to Coastal Act policies designed to concentrate residential development to minimize impacts to coastal resources (sections 30250 and 30253).

On January 1, 2020, new housing laws went into effect that seek to address the statewide housing crisis by encouraging the maintenance of existing multi-family residential density (SB330) and provision of additional ADUs (Government Code §§ 65852.2, 65852.22). The Housing Crisis Act prohibits local governments from approving residential projects that would demolish more “dwelling units” than are created by the project (no net loss). The Housing Crisis Act does not apply to the Commission or modify the Coastal Act. Nevertheless, based on the City’s approval of the project as originally proposed as a single-family residence with an attached ADU, it appears that the City has taken the position that an ADU satisfies the no net loss requirement of the Housing Crisis Act.

However, on September 16, 2021, Governor Newsom signed two additional housing laws, which took effect on January 1, 2022. Senate Bill 8 (SB 8) extends the expiration of the Housing Crisis Act from January 1, 2025 to January 1, 2030 and clarifies that the definition of “housing development project” in the Housing Crisis Act was intended to include development of single-family residences. Senate Bill 9 (SB 9) requires cities and

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<sup>3</sup> Staff reports for CDP Application Nos. 5-20-0541 (South Bay Land Management and Development Company, LLC); CDP No. 5-20-0650 (Smith)

<sup>4</sup> Staff report for CDP Application No. 5-21-0467 (Reinis)

counties to ministerially approve up to two residential units (i.e., a duplex) on a single-family residential lot except in specific enumerated circumstances (Government Code section 65852.21(a)). In addition, SB 9 prohibits local governments from imposing objective zoning standards that would have the effect of physically precluding the construction of up to two units on a lot (Government Code section 65852.21(b)). These laws are intended to encourage new residential units in areas that have historically and/or currently limited the number of residential units that can be developed. Both laws have a “savings clause” as to the Coastal Act, so while local governments’ uncertified zoning codes would be subject to SB 9, these new housing laws do not override or supersede the provisions of the Coastal Act and certified Local Coastal Programs, except as to local hearing requirements for coastal development permit applications for projects subject to these laws.

Considering the above discussed SB 9, the Commission understands that, effective January 1, 2022, the City of Hermosa Beach is no longer able to enforce its current zoning code that prohibits a duplex on the site, as it constitutes an objective zoning standard that would have the effect of physically precluding the construction of up to two units. Therefore, Commission staff communicated these circumstances to the applicant, and the applicant agreed to go back to the City, for approval of a revised plan that proposed a duplex on the site, as opposed to the originally proposed single-family residence with an ADU in the initial application. The proposed project was revised to a duplex with design modifications to ensure the smaller duplex unit proposed was at least as large as the existing smaller duplex unit on the site (982 sq. ft., as determined by the applicant) and the revised plans were approved in concept by the City of Hermosa Beach on March 16, 2022.

The larger of the two existing units at approximately 1,350 sq. ft. is approximately 38% larger than the smaller unit at 982 sq. ft. Meanwhile, the proposed 2,957 sq. ft. larger duplex unit would be approximately three times larger than the 984 sq. ft. smaller duplex unit. Construction of the originally proposed 940 sq. ft. ADU in place of an existing 982 sq. ft. primary dwelling unit would have contributed in some respects to a loss of housing density in Hermosa Beach, as discussed above. Further, in addition to retaining the number of residential units, maintaining parity between the existing units and the new units is necessary to provide a comparable housing opportunity. In Hermosa Beach, the typical pattern of development for existing duplexes is for one of the units to be significantly larger than the other. Thus, allowing the replacement units to also be of different sizes maintains the mix of housing opportunities identified as a goal of the LUP and additionally affords such opportunities to a broader spectrum of potential residents. However, to prevent adverse impacts to housing opportunities in the coastal zone, it is necessary to ensure that neither of the new units are smaller than the smaller of the existing units. Therefore, **Special Condition 5** requires that the smaller of the two units shall be at least the size of the smaller duplex unit existing onsite (982 sq. ft.).

With regard to parking, the certified LUP requires two on-site parking spaces for each residence that is constructed, resulting in the requirement of a total of four on-site parking spaces for a duplex. The purpose of on-site parking requirements is to prevent impacts to public access to the coast. The currently proposed project incorporates three



parking spaces (a two-car garage and one uncovered parking space in the driveway). On-street parking in this area is already subject to residential parking permits, and the public can only park on-street for periods of one hour during the prime beach use summer months.<sup>5</sup> Therefore, a total of three on-site parking spaces for the duplex would not significantly impact public's ability to access the coast. To further reduce the chance of the second unit tenants parking on public street, **Special Condition 5** requires (as is currently proposed by the applicant in the revised project) that a minimum of three parking spaces be provided onsite and that both units shall have vehicular and separate ingress/egress access to the garage, which shall provide shared parking for both units in perpetuity.

Regarding open space, the LUP requires 300 sq. ft. of open space per dwelling unit in the R-2B zone. For the applicant to propose a duplex on site, a total of 600 sq. ft. of open space is required, as opposed to 300 sq. ft. of required open space for a single-family residence. The currently proposed duplex project (as revised by the applicant) proposes 398 sq. ft. of total qualifying open space in the R-2B zone, which would not be consistent with the LUP's open space requirement. Open space is typically required for water quality or visual resource purposes. However, in this case, the site is not located adjacent to a water body, and there is no requirement for onsite percolation. Regarding front-yard setbacks, the LUP requires ten percent of lot depth (with a minimum of five ft. and a maximum of ten ft.) in the R-2B zone, which would be approximately 9.5 ft. in this case given the lot depth of approximately 95 ft. The currently proposed duplex project proposes a five ft. front-yard setback, in the R-2B zone, which would not be consistent with the LUP's requirement, based upon lot depth. Front-yard setbacks are typically required for visual resource purposes, but the site is not located adjacent to a water body in this case. Thus, in this case, there will be no impacts to coastal resources associated with the open space requirement. The proposed project would also meet all other LUP open space standards such as rear- and side-yard as setbacks and lot coverage for a duplex on site. Therefore, the deficient amount of open space (202 sq. ft.) and the deficient amount of front-yard setback (4.5 ft.) for a duplex would not adversely impact coastal resources in the area.

The certified LUP states that the maximum height limit for duplex structures in the R-2B zone is 30 ft. and, as revised by the applicant, the 30-ft. tall duplex would be consistent with the LUP's height limit. Furthermore, the purposed structure would be setback five ft. from the walk-street and would not disrupt any public views of the beach from the

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<sup>5</sup> In 1982, the Commission approved a parking management plan, which has been in place for nearly 40 years. The parking management program has been revised various times since its original approval in 1982 (Ref: CDP Nos. 5-82-251, 5-82-251-A1, 5-84-236, 5-84-236-A1, 5-84- 236-A2, 5-97-011). The residential parking program covers nearly the entirety of the City's Coastal Zone (an area bounded by both City boundaries on the north and south, the Strand (ocean front) on the west and Loma and Morningside Drives on the east) and provides for preferential parking by permit for residents who live within four blocks of the beach. In general, the parking program as approved most recently by the Commission, consists of preferential on-street parking for City residents between May 15 and September 15 from 10:00 AM to 10:00 PM every year, a maximum of 1 hour parking in preferential spaces for non-residents, and provision of free remote parking lots for visitor beach parking

walk-street. Thus, the 30-ft. high duplex would not adversely impact public coastal views in the area and would be consistent with the City's LUP. The Commission also imposes **Special Condition 1** to clarify that this action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act.

### **Community Character**

To better understand the character of the neighborhood, Commission staff conducted a survey of residential properties surrounding the project site to identify single-family and multi-family residences. The survey area encompassed the lots bounded by 19<sup>th</sup> Street to the north, 18<sup>th</sup> Court to the south, Beach Drive to the west, and Hermosa Avenue to the east. Of the 35 lots that were included in the survey area, eight lots featured single family residences, and 27 lots featured multi-family residences. The residential structures ranged from 1,264 sq. ft. to 5,817 sq. ft. in size, with the average structure totaling approximately 2,780 sq. ft. ([Exhibit 5](#)). The proposed development, as revised by the applicant, of a 4,400 sq. ft. (including garage) duplex at 55 18<sup>th</sup> Street would be within the range of sizes of existing residences, and there are other homes similar in size within the survey area and in the surrounding community. Therefore, as revised, the proposed project would be consistent with, and would not have an adverse cumulative effect on, the character of the surrounding community.

The results of the community character analysis indicate that the surrounding lots are currently developed with about 77% multi-family residences (consisting of between two-six units) and about 23% single-family residences. Given the majority of residences in the area are multi-family residences rather than single-family residences, a new duplex (as revised by the applicant) would not have an adverse impact on the community character of the area. Maintaining two units on site is consistent with the certified LUP goal to protect the current diversified mix of housing. As a duplex on a 2,850 sq. ft. lot, the proposed development is consistent with the certified LUP, which allows for a maximum of two units on the site.

Thus, as conditioned by the Commission, the project can be found to be consistent with Sections 30250, 30251, and 30253 of the Coastal Act and the LUP policies pertaining to new development and community character.

### **C. Public Access**

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in pertinent part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

...  
(2) adequate access exists nearby, ...

The project site is located adjacent to the 18th Street walk-street, which serves as a pedestrian coastal access walkway between Hermosa Avenue and The Strand ([Exhibit 1](#)). As the project plans illustrate, the residence would be set back five ft. from the property line facing the walk-street and approximately 27 ft. from the public walkway. In contrast with encroachments along The Strand, which is a major multi-use public recreation path and adjacent to the beach and where, 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, the proposed encroachment onto 18th Street right-of-way does not have significant adverse public access and recreation impacts. The City of Hermosa Beach administers the encroachment permit program in this area. The applicant plans to utilize the encroachment area as at-grade patio improvements and has applied for an encroachment permit with the City but has not received the permit at this time. Therefore, the Commission imposes **Special Condition 3**, requiring the applicant to submit proof of enrollment in the City's encroachment permit program prior to issuance of the coastal development permit. In addition, the Commission imposes **Special Condition 4**, which retains the City's right to revoke an encroachment permit.

As discussed in Section B above, the purpose of on-site parking requirements in the certified LUP is to prevent impacts to public access to the coast. The existing duplex includes three parking spaces so the proposed project would maintain that number of parking spaces on-site. Although the proposed project with three parking spaces (a two-car garage and one uncovered parking space in the driveway) does not meet the LUP requirement of a total of four on-site parking spaces for a duplex, on-street parking in this area is already subject to residential parking permits, and the public can only park on-street for periods of one hour during the prime beach use summer months. Therefore, the proposed parking configuration for the duplex would not significantly impact public's ability to access the coast. To further reduce the chance of the second unit tenants parking on public street, **Special Condition 5** requires that a minimum of three parking spaces be provided onsite and that both units shall have vehicular and separate ingress/egress access to the garage, which shall provide shared parking for both units in perpetuity.

As conditioned, the Commission finds that proposed development will not have any new significant adverse impacts on public views and access to and along the coast or

nearby recreational facilities and, thus, conforms to Sections 30210, 30211, and 30212 of the Coastal Act.

## **D. Hazards**

Section 30253 of the Coastal Act states, in pertinent part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project raises potential hazards concerns related to the project site's location in or near a low-lying flood-prone area. In low lying areas subject to flooding, excessive storm runoff or groundwater emergence can contribute to surface flooding. Thus, potential hazards issues that must be addressed, include flooding, groundwater inundation, and storm hazards associated with locating development in the low-lying area. 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 risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the "business as usual"

scenario (and data suggests temperatures and sea level rise are tracking along the higher projections), the Ocean Protection Council (OPC) 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 regarding 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 in many locations, which will result in increased flooding, erosion, and storm impacts to coastal areas. 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. Although the project site is not located within the first line of development adjacent to the ocean, the low-lying site is likely to become flood-prone. This vulnerability is further exacerbated with sea level rise and increased storm surge activity. Sea level rise will also cause coastal groundwater tables to rise in this area of Hermosa Beach, with groundwater potentially emerging to cause flooding as well as impacts like damage to buried development or infrastructure, mobilization of contaminants, and changing liquefaction risks.

The Coastal Commission, in line with statewide guidance, generally advocates for a precautionary approach to sea level rise adaptation planning, which stems from the overall importance of keeping development safe from coastal hazards and protecting coastal resources, consistent with the Coastal Act. It also derives from the fact that the costs and consequences associated with inadvertently underestimating sea level rise hazards could be quite high. As explained in the OPC State of California Sea Level Rise Guidance, the “risk aversion scenario” is a principle of sea level rise risk analysis that is used to account for variable risk tolerance for different types of development by establishing sea level rise probability thresholds for varying degrees of risk aversion. For example, a critical infrastructure asset, such as a hospital, should be analyzed with high risk aversion, and would use a more precautionary range of probabilities of amounts of sea level rise, while a parking lot or a bike path could be analyzed with lower risk aversion. In this case, the risk aversion scenario recommended by both the Commission and OPC Guidance for residential projects is “medium-high,” as it

represents a scenario that is relatively high within the range of possible future sea level rise scenarios and is therefore appropriately precautionary. In other words, the statewide sea level rise guidance recommends use of the relatively high projection of sea level rise associated with the medium-high risk aversion scenario, even though it has a lower probability (1-in-200 chance), because of the high consequences to coastal resources, valuable development, and life and safety that would occur if sea level rise were underestimated, and the recognition that many of these impacts cannot be undone once they have occurred.

To analyze the project site for sea level rise impacts consistent with the Coastal Commission's Sea Level Rise Guidance, staff first followed the methodology outlined in the OPC's 2018 sea level rise document to establish a projected sea level range for the new development. The 2018 OPC guidance uses NOAA tide gauges, a projected project lifespan, and risk aversion scenario to estimate a sea level rise range. The sea level rise analysis assumed a 75-year projected lifespan for the project, consistent with the Commission's Sea level Rise Policy Guidance for residential development. According to the 2018 OPC update, the projected sea level rise range for the project site is tied to the Santa Monica NOAA Tide Gauge. This tide gauge estimates a range between 5.5 and 6.8 ft. of sea level rise by 2100 (which falls within the 75-year projected lifespan for the project). Regarding 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 analyzed the project site's vulnerability to sea level rise impacts using USGS Coastal Storm Modeling System (CoSMoS) data through Our Coast, Our Future, a mapping tool developed by Point Blue Conservation Science and USGS Pacific Coastal and Marine Science Center.<sup>6</sup> The CoSMoS model, under a worst case scenario of 6.6-foot sea level rise (the closest available option that was within the determined sea level range) and a 100-year storm scenario, revealed that the project site is anticipated to be within a low-lying flood-prone area that will experience a rising groundwater table ([Exhibit 3](#)).<sup>7</sup> The CoSMoS - Groundwater model indicates the groundwater table will potentially become very shallow (0-3.3 ft. in depth) beneath the project site under a 6.6-ft. sea level rise scenario ([Exhibit 4](#)).

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<sup>6</sup> Projected flood exposure data are from the USGS Coastal Storm Modeling System (CoSMoS v3.0; Barnard et al. 2018), accessed via the Our Coast Our Future web platform (Point Blue Conservation Science and USGS 2022). <https://ourcoastourfuture.org/hazard-map/>

<sup>7</sup> While the CoSMoS groundwater model presents options for subsurface coastal geology and does not include local factors such as pumping or changes in groundwater recharge, it functions as a screening tool to identify areas that may experience increasing groundwater hazards with sea level rise.

Shoreline protective devices can have a variety of negative 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, including ultimately resulting in the loss of beach. The project, which includes the demolition of an existing duplex and construction of a new duplex (as revised by the applicant), constitutes new development. As such, the new duplex units are not entitled to shoreline protection, and the Commission imposes **Special Condition 2**, requiring the applicant to acknowledge that development approved by this permit, including the residences, garage, and foundation, is not entitled to shoreline protection and to waive any rights to future shoreline protection. In addition, the applicant would be required to remove the approved development if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. The Commission also imposes **Special Condition 9**, which requires the permittees to assume the risks of developing a new duplex in an inherently hazardous area. Furthermore, any potential changes to the proposed project may result in adverse impacts to coastal resources. In further consideration of the hazardous project location, **Special Condition 6** requires an amendment to Coastal Development Permit (CDP) No. 5-22-0022, or an additional CDP, for any future development on the site that would otherwise be exempt from permit conditions. Furthermore, 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 10**, requiring that the property owners record a deed restriction against the property, referencing all the Special Conditions of this permit. As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Section 30253 of the Coastal Act pertaining to hazards.

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

## **E. 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 inhibit light penetration and reduce habitat quality and foraging success for avian and marine species. To avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 8**, 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 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. 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. The plan includes a drainage system to



manage and increase on-site percolation of runoff, including downspouts, catch basins, and sump pump basins, which are directed to the public right-of way and storm drain.

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 using permeable surfaces, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters to maintain the biological productivity and the quality of coastal waters. The Commission imposes **Special Condition 7**, which ensures that the project conforms to the drainage and run-off control plan received on January 11, 2022. While this plan was developed for the version of the proposed project before it was revised to be a duplex instead of a single-family residence with an ADU, that design change is not expected to impact the drainage and erosion control measures. Any changes to the drainage and run-off control plan must be submitted to satisfy Part B of **Special Condition 7**, which requires that any proposed changes to the approved plan shall be reported to the Executive Director. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230, 30231 and 30232 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

## **F. 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 10**, which requires that the property owners record a deed restriction against the property, referencing all 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.

## **G. Local Coastal Program**

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The LUP for Hermosa Beach was effectively certified on April 21, 1982; however, because Hermosa Beach does not have a certified LCP, the Coastal Act is the standard of review for this project.

For the reasons described above, there is a potential prejudicial effect on the City's ability to prepare an LCP that is in conformity with Chapter 3 that would result from the applicant's initial proposal to replace a duplex with a single-family residence with an

ADU, due to the cumulative loss of density in the City as the certified LUP's density designations and density maintenance policies are ignored. As revised and conditioned, the proposed development honors and conforms to the certified LUP and is consistent with Chapter 3 of the Coastal Act. Therefore, approval of the project, as revised and 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.

## **H. 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 Title 14 of the California Code of Regulations, section 15303.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment, either individually or cumulatively with other past, present, or reasonably foreseeable probable future projects. 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. 5-22-0022 and associated file documents.