

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-21-0649

Applicant: Joel Sprague

Agent: Brandon Straus, Srour & Associates

Location: 44 16th Street, Hermosa Beach, Los Angeles County
(APN: 4183-005-029)

Project Description: Demolish existing one-story, 21-foot-tall, 1,393 sq. ft. single-family residence. Construct a new three-story, 30-foot-tall, 6,050 sq. ft. single-family residence with an attached 559 sq. ft. three-car garage, grading (208 cy. of cut), and an unenclosed guest parking space adjacent to the garage.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a 1,393 sq. ft. single-family residence and to construct a 6,050 sq. ft., three-level single-family residence with a ground-level patio and an attached 559 sq. ft. three-car garage ([Exhibit 2](#)). Non-invasive, drought tolerant landscaping is proposed for the project. The project would require grading, including 208 cu. yd. of cut that would be exported to a site outside of the coastal zone.

The Commission certified the City's LUP in 1982. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal

Act constitute the standard of review for the project, with the certified LUP used as guidance.

The project raises hazards concerns under section 30253 of the Coastal Act because it involves development in a low-lying flood-prone area, which may be exacerbated by sea level rise. Although the residence is expected to be safe from coastal hazards over the anticipated life of the proposed structure, the project originally included a proposal for the construction of a fully subterranean basement that would have been likely to be impacted by flooding. Commission staff recommends approval of the project with **Special Condition 1**, which would require local government approvals for the final plans omitting the basement. In addition, due to the inherent risks associated with coastal development in low-lying, flood-prone areas, the Commission imposes **Special Condition 2**, requiring the applicant to waive any rights to shoreline protection, as well as **Special Condition 3**, requiring the applicant to assume the risks of development in an inherently hazardous area.

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 5-21-0649 with eight special conditions. The motion is on Page 4 of the staff report.

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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

MOTION AND RESOLUTION

Motion:

I move that the Commission approve the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Application No. 5-21-0649 for the proposed development 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 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.

SPECIAL CONDITIONS

1. 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 final plans that have been reviewed and approved by the City of Hermosa Beach. The revised plans shall substantially conform with the plans submitted to the Commission, titled “Sprague Residence,” by Tomaro Architecture, dated April 12, 2022, except that they shall eliminate the basement and any reference thereof.

2. 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 5-21-0649 shall prevail.

3. Waiver of Rights to Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittee acknowledges that the development authorized by this permit – including construction of a new single-family residence – constitutes new development under the Coastal Act and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the permittee hereby waives, 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. 5-21-0649.
- B. By acceptance of this permit, the permittee further agrees, 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.

4. Encroachments.

- A. The applicant proposes to utilize an approximately 894 sq. ft. encroachment area that extends approximately 39'-11 7/8" along the width of the subject lot and

approximately 22-4 3/8" 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 encroachment program (i.e. annual payment to City for encroachment) and make the recurring annual payment so long as the encroachment remains in place.

5. **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.

6. **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 on October 26, 2021, showing that roof and surface runoff will be captured with a trench drain and an on-site drainage system that connects to the municipal storm drain system using a sump pump.
- B. 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 post-construction 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.
- C. 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.

7. **Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.** The permittee 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. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H. All 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 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.

- 8. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (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.
- 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.

FINDINGS AND DECLARATIONS

A. Project Description and Background

The applicant is proposing to demolish a 1,393 sq. ft. single-family residence (constructed circa 1938) and to construct a 30-ft. high (above the interpolated grade line), 6,050 sq. ft., three-level single-family residence with a ground-level patio and an attached 559 square-foot, three-car garage ([Exhibit 2](#)).¹ Non-invasive, drought tolerant landscaping is proposed for the project. The project would require grading, including 208 cu. yd. of cut that would be exported to a site outside of the coastal zone. 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 site is in a highly urbanized neighborhood and is approximately 235 ft. inland from the beach. The project site consists of a 3,800 sq. ft. rectangular lot located on a walk-street that is developed with a 1,393 sq. ft. single-family residence ([Exhibit 1](#)). The lot is zoned R-2B, which corresponds to the Medium-Density Residential zone in the City of Hermosa Beach's Land Use Plan (LUP). Pursuant to the LUP, the R-2B zone permits single-family residences to be developed per Low-Density Residential (R-1) zone standards. The LUP requires a front yard setback of 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 project proposes a five ft. front-yard setback, which would not be consistent with the LUP's requirement. Front-yard setbacks are typically required for visual resource purposes, but the site is not located adjacent to a water body in this case, and the structure would not protrude beyond the adjacent homes in a manner that impacts public views to and along the coast from the walk-street. The proposed structure would be located 27'-4 3/8" from the public walkway along 16th Street (five ft. setback of structure plus 22'-4 3/8" ft. encroachment onto the City's right-of-way). The applicant plans to utilize the encroachment area of approximately 894 sq. ft. 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 4**, requiring the applicant to submit proof of enrollment in the City's encroachment permit program prior to issuance of the coastal development permit; **Special Condition 5** ensures that the City retains the right to revoke an encroachment permit.

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.

¹ The applicant has modified the plans on April 12, 2022 to remove any proposal for a subterranean basement, but several references to the basement remain in the new plans. The applicant has confirmed that the basement references are in error.

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, if none, in other areas with adequate public services and where it will not have significant, cumulative adverse effects on coastal resources. The project proposes to replace a single-family residence with another single-family residence and would not result in the loss of existing residential units onsite. The project adequately concentrates development in an area that can accommodate it and minimizes vehicle miles traveled. The project site is in a densely developed residential area that is located approximately a quarter-mile from grocery stores, shops, restaurants, entertainment facilities, and recreational areas such as the Hermosa Beach Pier and The Strand.

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. The structures located along this stretch of 16th Street consist of a mix of single-family residences, duplexes, triplexes and multi-family residences that are up to three-stories tall and range in size from 725 sq. ft. to 5,124 sq. ft. The proposed residence would be of a similar height to the surrounding residences, and while the structure's mass and scale will be larger than homes in the immediate vicinity, no visual resource and public access issues are anticipated.² Thus, the Commission finds that, as conditioned, the proposed home would be consistent with the community character policies of Chapter 3 of the Coastal Act.

As referenced above, the project site is in the R-2B zone, and therefore, according to the certified LUP Appendix G, Table XIII, building requirements for single-family residences (including height and open space) must conform with the R-1 standards. Thus, single-family residential structures in the R-2B zone are restricted to 25 ft. (rather than 30 ft.) in height and must provide at least 400 sq. ft. (rather than 300 sq. ft.) of usable open space per dwelling unit. The proposed project will be 30-ft. high and contain 401 sq. ft. of open space, and thus the height is inconsistent with the LUP. The City has typically interpreted both the height and open space requirements of the R-2 and R-2B zones to apply to all structures, regardless of whether the structure is a multi-family structure or a single-family residence. In previous actions,³ the Commission has found that review of projects that are not consistent with the LUP's height limit and open space policies must be performed on a case-by-case basis to ensure that projects do not adversely impact coastal resources. In this case, the open space requirement is consistent with the LUP requirements, and the Commission finds that the proposed height and front yard setback would not interfere with public views to the beach from the walk-street.

² The Commission has approved various other large homes in the coastal zone of Hermosa Beach in the past few years, for example: a 6,803 sq. ft. home approximately 0.8 miles from the subject site at 3205 Highland Avenue (CDP No. 5-19-0220); a 5,226 sq. ft. home approximately 0.75 miles from the subject site at 3033 The Strand (CDP No. 5-21-0143); a 5,216 sq. ft. home approximately 0.45 mile from the subject site at 2428 The Strand (CDP No. 5-18-0234).

³ CDP No. [5-20-0687](#) (347 29th Street HB, LLC), CDP No. [5-21-0756](#) (Lloyd).

Section 30252 requires that new development maintain public access to the coast by providing adequate parking facilities. Section 30253 requires that new development must minimize energy consumption and vehicle miles traveled. These policies together encourage “smart” growth by locating new development in appropriate areas to minimize impacts on coastal resources and to discourage residential sprawl into more rural or sparsely populated areas that are not adequately developed to support new residential development and where coastal resources could be threatened. Section 30253 of the Coastal Act further 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. 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 development, public access, and recreation.

The proposed project raises potential hazards concerns related to the project site’s location in a low-lying area that is inherently vulnerable to flooding. 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. In previous Commission actions, it has been estimated that 6.8 ft. of sea level rise within the project vicinity may be anticipated over the assumed 75-year projected lifespan of the project. Using this sea level rise estimate, 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.⁴ The CoSMoS model, under a worst-case scenario of 6.6-ft. 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](#)).⁵ 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](#)).

For this project, the applicant has submitted a Geotechnical Engineering Investigation dated September 18, 2020, prepared by Norcal Engineering for the subject project. In response to further inquiry by Commission staff, the soils and geotechnical consultants conducted two additional exploratory borings on October 11, 2021, to evaluate the depth of groundwater at the subject site and its impact on the proposed residential development. The investigation concludes that groundwater can be currently found at

⁴ 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/>.

⁵ 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.

approximate depths of 8.5 – 9.25 ft. At the time of application, the applicant was proposing a 1,362 sq. ft. fully subterranean basement at a depth of 7'6" below existing grade. Per the consultants' recommendation, the floor surface elevation of the proposed basement mat slab would have needed to be a minimum of 2 ft. above groundwater level to eliminate the installation of a dewatering system. At current water table depths, the proposed basement slab would have been less than two feet above groundwater level. Under projected sea level rise scenarios, the proposed basement would have been perpetually inundated.

Basement development can raise a number of coastal resource protection issues and can be highly problematic in flood-prone and/or coastal areas. For one, basements can potentially function as shoreline protective devices, which in general are not permitted for new development, either at the time of project approval or at any point in the future. Also, they often are designed to house electrical and mechanical components and/or household chemical storage that could compromise coastal resources and public safety (e.g., electrocution, interruption in public subterranean infrastructure services, groundwater contamination) if flooding occurs. Finally, basements can also complicate the removal of the associated structure, and are difficult to remove themselves, if removal is necessary to minimize risks to life and property in a hazardous area.

Therefore, the applicant elected to modify the proposed project to avoid the flood hazard by removing the fully subterranean basement. The applicant submitted revised plans that eliminated the basement to the Commission on April 12, 2022, however the plans did not include approval-in-concept from the City of Hermosa Beach. As such, **Special Condition 1** requires the applicant to submit substantially similar plans with local government approval that omit all reference to a basement. The new proposed single-family residence is considered new development and is therefore not entitled to shoreline protection. The Commission imposes **Special Condition 2** to clarify that this action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. The Commission also imposes **Special Condition 3** to confirm that the applicant is not entitled to shoreline protection for the development approved by this permit, including the residence, garage, foundations, and patio, and to waive 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. Since the proposed development is located in an area where dynamic and unpredictable coastal hazards exist that could adversely impact the development in the face of flooding and sea level rise, the Commission also imposes **Special Condition 10**, which requires the applicant to assume the risk of development. Finally, **Special Condition 7** outlines construction-related requirements for the safe storage of construction materials and the safe disposal of construction debris, and **Special Condition 6** ensures that the project conforms to the drainage and runoff control plans received on October 26, 2021.

B. Hazards

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources, and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to prohibit construction of protective devices (such as a seawall) in the future and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the proposed development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. Development

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

D. Public Access

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. The project provides adequate off-street parking based on the Commission's typically applied standards. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. Marine Resources and Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed, 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 and increasing on-site percolation using permeable surfaces, and stormwater management through the use of downspouts, catch basins, and sump pump basins, which are directed to the public right-of-way and storm drain. The Commission imposes special conditions that would ensure that the project incorporates the proposed construction-related best management practices and conforms to the drainage and runoff control plans received on October 26, 2021. Therefore, the Commission finds that the proposed development 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 8**, 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 Land Use Plan (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. 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.

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. 5-21-0649 and associated file documents.
- City of Hermosa Beach Certified Land Use Plan.