

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD, SUITE 300  
LONG BEACH, CA 90802-4325  
VOICE (562) 590-5071  
FAX (562) 590-5084



# F19a

Appeals Filed: 4/06/2020  
8/11/2020  
SI Found: 10/08/2020  
Staff: M. Revell-LB  
Staff Report: 5/20/2022  
Hearing Date: 6/10/2022

## REGULAR CALENDAR DE NOVO REHEARING

**Appeal Numbers:** **A-5-MNB-20-0020 & A-5-MNB-20-0041**

**Applicant:** **Corinna Cotsen 1991 Trust**

**Agent:** Sherman Stacey, Gaines and Stacey, LLP

**Local Government:** City of Manhattan Beach

**Local Decision:** Approval with Conditions

**Appellants:** Commissioners Linda Escalante and Mike Wilson

**Project Location:** 1312 and 1316 The Strand, Manhattan Beach, Los Angeles County (APN(s) 4179-026-007 & 4179 026-008)

**Project Description for A-5-MNB-20-0020:**

Demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots and construction of a 9,920 sq. ft. two-story over basement, single-family residence with an attached 845 sq. ft. three-car garage across both lots with a combined total area of 6,287 sq. ft.

**Project Description for A-5-MNB-20-0041:**

Same as A-5-MNB-20-0020, except that a merger of the two existing adjacent lots (1312 The Strand is 2,987 sq. ft. and 1316 The Strand is 3,300 sq. ft.) into one 6,287 sq. ft. lot is also proposed.

**Staff Recommendation:** Deny

SUMMARY OF STAFF RECOMMENDATION.

The matter currently before the Commission for re-hearing is a de novo review of two coastal development permit applications originally submitted by Ms. Corinna Cotsen (Applicant) to the City of Manhattan Beach (City) in 2019 to demolish a single-family residence located at 1316 The Strand and a triplex located at 1312 The Strand, merge the two lots, and build a new single-family residence across the new single lot.

On January 7, 2020, the City approved a coastal development permit (CDP) for Ms. Cotsen's first application for demolition of two residential structures on two separate lots and construction of a new single-family residence over both lots. Commissioner Escalante and Commissioner Wilson appealed the City's decision on April 6, 2020, resulting in Appeal No. A-5-MNB-20-0020. The City then approved the Applicant's second application for the proposed lot merger and issued a correction to the first CDP with an updated project description (including the proposed demolition, construction, and lot merger), on July 23, 2020. Commissioner Escalante and Commissioner Wilson subsequently appealed the corrected CDP, resulting in Appeal No. A-5-MNB-20-0041.

The Commission considered the combined appeals in October and November of 2020. In October, the Commission found the appeals to raise substantial issues and accepted the appeals for a full de novo review of the Applicant's CDP applications. In November, the Commission conducted its de novo review of Ms. Cotsen's applications and denied them as inconsistent with policies of the certified Local Coastal Program (LCP) for Manhattan Beach. Specifically, the Commission found that the project facilitated a larger, less dense development pattern than what was intended by the LCP's "High Density Residential" designation for the site. Second, the Commission determined that the City-approved single-family residence is significantly larger than the surrounding residential development and is out of character with the general pattern of multi-family buildings in the immediate vicinity and, therefore, the project was inconsistent with the LCP's community character policies. Ms. Cotsen subsequently filed a lawsuit challenging the Commission's denial of her permit applications.

On January 4, 2022, the court held a hearing and denied the Applicant's petition. The court found that the Commission reasonably determined that the proposed demolition of a triplex and single-family residence, lot merger, and construction of a large single-family residence across two adjacent lots is not consistent with Coastal Act and LCP policies protecting community character, and that its findings that the proposed lot and home size are out of character with the surrounding community are supported by substantial evidence. However, the court did not find adequate support for the Commission's findings that the proposed loss of density is inconsistent with the LCP. Given the split decision, the court entered judgment in February 2022 denying the Applicant's writ petition while also remanding the decision to the Commission "for reconsideration . . . as to whether, in light of the Court's Statement of Decision, a coastal development permit should have been denied for the demolition of the structures at 1312 The Strand and 1316 The Strand."

Commission staff recommends that the Commission, after a hearing on the narrow question presented by the trial court and in light of the court's Statement of Decision, reaffirm its decision to deny the Applicant's permit applications, for the following reasons. First, the Commission denied the entire proposed project before the Commission on appeal—consisting of demolition of two residential structures, a lot merger, and construction of a single-family residence—as inconsistent with the community character policies of the City's certified LCP. The trial court upheld the Commission's denial of the project on community character grounds and the Commission is not required to revisit that valid decision in this hearing.

Second, in reviewing the Applicant's project, the Commission properly reviewed the entire project proposed by the Applicant and appealed to the Commission. The Commission was not required to consider approving a coastal development permit for only the demolition portion of the project. The Coastal Act does not require the Commission to redesign projects for applicants in order to identify a project that would be consistent with the standard of review, to divide projects into phases or components in order to identify sub-parts that might, in isolation, be approvable, or to impose conditions of approval to achieve consistency with certified LCPs or the Coastal Act.

Third, to the extent the Commission has discretion to approve components of a project that are consistent with LCP policies (or the Coastal Act) and deny portions that are not, the Commission reasonably declined to approve only the demolition portion of the Applicant's project. The purpose of the project is to replace the existing structures with a new residence on a merged lot, not merely to demolish the existing structures. The Coastal Act and implementing regulations anticipate that "functionally related development" performed by the same applicant will be the subject of a single permit application, not approved piecemeal (14 Cal. Code Regs. § 13053.4(a).) No purpose of the LCP or the Coastal Act would be served by approving the demolition component of the project in isolation.

In short, the Commission's denial of the Applicant's project was upheld by the trial court. If the Applicant wishes to build a different structure (or structures) on her property, the Applicant may submit an application to the City, the primary permitting authority for development in the Manhattan Beach coastal zone.

Therefore, Commission staff recommends that the Commission deny the applications for the proposed project because it is inconsistent with the LCP's community character policies. The motions to adopt staff's recommendations can be found on **Page 5**.

TABLE OF CONTENTS

I. MOTIONS AND RESOLUTIONS ..... 5  
II. FINDINGS AND DECLARATIONS ..... 6  
    A. PROJECT DESCRIPTION..... 6  
    B. PROJECT HISTORY..... 6  
    C. LITIGATION AND COURT DECISION ..... 7  
    D. COMMUNITY CHARACTER ..... 7  
    E. LOCAL COASTAL PROGRAM..... 13  
    F. CALIFORNIA ENVIRONMENTAL QUALITY ACT..... 13

**EXHIBITS**

- Exhibit 1 – Project Location
- Exhibit 2 – Project Plans
- Exhibit 3 – Local CDP No. 19-21
- Exhibit 4 – Appeal A-5-MNB-20-0020
- Exhibit 5 – Local CDP No. CA 19-21 *Nunc Pro Tunc*
- Exhibit 6 – Appeal A-5-MNB-20-0041
- Exhibit 7 – City of Manhattan Beach Urgency Ordinance 19-0020-U, dated 12/17/19.
- Exhibit 8 – Judgment and Order of Remand, *Cotsen, et al. v. California Coastal Commission*, Case No. 20STCP04214
- Exhibit 9 – Statement of Decision, *Cotsen, et al. v. California Coastal Commission*, Case No. 20STCP04214
- Exhibit 10 – Adopted tentative ruling, *Sunshine Enterprises, LP v. California Coastal Commission*, Case No. BS158638
- Exhibit 11 – Unpublished Opinion, *Sunshine Enterprises, LP v. California Coastal Commission*, Court of Appeal – Second District, BA284459
- Exhibit 12 – Staff Report for Appeal No. A-5-MNB-20-0020 & A-5-MNB-20-0041; Staff Report Addendum

## I. MOTION AND RESOLUTION

### Motion I:

I move that the Commission **approve** Coastal Development Permit No. **A-5-MNB-20-0020** for the development proposed by the applicant.

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution I:

The Commission hereby denies Coastal Development Permit No. **A-5-MNB-20-0020** for the proposed development on the ground that the development will not conform with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

### Motion II:

I move that the Commission **approve** Coastal Development Permit No. **A-5-MNB-20-0041** for the development proposed by the applicant.

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution II:

The Commission hereby denies Coastal Development Permit No. **A-5-MNB-20-0041** for the proposed development on the ground that the development will not conform with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## II. FINDINGS AND DECLARATIONS

### A. Project Description and Location

The City of Manhattan Beach approved the demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots owned by the same applicant, a merger of the two lots (1312 The Strand is 2,987 sq. ft. and 1316 The Strand is 3,300 sq. ft.) into one 6,287 sq. ft. lot, and construction of a 9,920 sq. ft., 30-ft. high, two-story over basement, single family residence with an attached 845 sq. ft. three-car garage ([Exhibit 2](#)). The current configuration of the existing residential units on the lots consists of a three-unit triplex at 1312 The Strand, which is comprised of (2) two bed, 2 bath units (upper and lower along on the Strand) and (1) one bed, one bath unit over the garage fronting the alley with six on-site parking spaces, and a 1,568 sq. ft single-family residence at 1316 The Strand with two onsite parking spaces. In total, the existing lots currently provide 4 residential units. The triplex at 1312 The Strand is a legal non-conforming structure because it does not meet current development standards for open space requirements, but it is consistent with the density policies of the certified local coastal program (LCP).

The project site is located in an urbanized neighborhood within Area District III (Beach Area) of the City of Manhattan Beach and is zoned Residential High-Density (RH) under the Certified LCP. The project site consists of two adjacent rectangular shaped, ocean-fronting lots located at 1312 and 1316 The Strand; the lots are 2,987 sq. ft. and 3,300 sq. ft., respectively ([Exhibit 1](#)). The site is located along The Strand, which is a 12-ft. wide paved public walkway between the ocean-fronting residences and the sandy beach and is between the first public road parallel to the sea (Ocean Drive) and the sea. Pursuant to the City's certified LCP, the project site is located in an appealable area. Public access to the beach is available via a public access stairway located at the terminus of 14<sup>th</sup> Street approximately 120 ft. upcoast of the project site.

### B. Project History

On October 21, 2019, Ms. Cotsen applied for a CDP from the City of Manhattan Beach to demolish a three-unit structure (or triplex), located on 1312 The Strand, and a single-family residence, located on 1316 The Strand, and construct a 9,923 square foot single-family residence and attached three-car garage across the two adjacent lots. On November 15, 2019, Ms. Cotsen submitted a second, separate application for the merger of the two adjacent lots. On January 7, 2020, the City approved a coastal development permit (CDP) application for the first proposed project (Local CDP No. 19-21). ([Exhibit 3](#)).

On March 23, 2020, the Coastal Commission's South Coast District Office received a valid Notice of Final Action (NOFA) for Local CDP No. CA 19-21. The NOFA did not include the merger of the 1312 and the 1316 properties in its project description. The Commission issued a Notification of Appeal Period on March 25, 2020. On April 6, 2020, Commissioners Escalante and Wilson filed an appeal of the project during the ten (10) working day appeal period ([Exhibit 4](#)). No other appeals were received. The City and applicant were notified of the appeal by Commission staff in a letter also dated April 6, 2020.

On May 21, 2020, a staff report for the appealed project was published, however on June 4, 2020, prior to the public hearing for the appeal, the applicant waived the 49-day deadline for Commission action on the appeal and requested a postponement of the Commission hearing.

The City then acted on Ms. Cotsen's second application for the lot merger by revising the previously approved local CDP to incorporate the lot merger. The Commission received a new Notice of Final Action (NOFA) for City of Manhattan Beach Local CDP No. CA 19-21c on July 29, 2020. On August 9, 2020, Commissioners Escalante and Wilson filed an appeal during the ten (10) working day appeal period ([Exhibit 6](#)). No other appeals were received. The City and applicant were notified of the appeal by Commission staff in a letter dated August 11, 2020.

On October 8, 2020, the Commission determined that appeals A-5-MNB-20-0020 & A-5-MNB-20-0041 raised a substantial issue with respect to consistency with the City's certified LCP and accepted the appeals for a de novo review of Ms. Cotsen's applications.

On November 4, 2020, the Commission continued its hearing on appeals A-5-MNB-20-0020 & A-5-MNB-20-0041 by conducting its *de novo* review of the applications and unanimously voted to deny the CDP applications. The Commission found that the proposed project, including the demolition of the triplex and residence, merger of the two lots, and construction of an almost 10,000 square foot house across the two merged lots, was inconsistent with the certified LCP for Manhattan Beach because the loss of three residential units did not comport with the intended density for the area in which the project was located, and because the proposed residence was significantly larger than the surrounding development and out of character with the general pattern of multi-family development in the surrounding area ([Exhibit 12](#)).

### **C. Litigation and Court Decision**

On December 23, 2020, Ms. Cotsen filed a lawsuit challenging the Commission's denial of her permit applications, and on January 4, 2022, the court held a hearing and denied Ms. Cotsen's petition ([Exhibits 8 & 9](#)). The court found that the Commission reasonably determined that the proposed demolition of a triplex, lot merger, and construction of a large single-family residence was not consistent with Coastal Act and LCP policies protecting community character, and that the Commission's findings that the proposed lot and single-family residence are out of character with the surrounding community are supported by substantial evidence. However, the court did not find adequate support for the Commission's findings that the proposed loss of density is inconsistent with the LCP. On February 14, 2022, the court entered judgment denying Ms. Cotsen's writ petition while also remanding the decision to the Commission "for reconsideration . . . as to whether, in light of the Court's Statement of Decision, a coastal development permit should have been denied for the demolition of the structures at 1312 The Strand and 1316 The Strand."

### **D. COMMUNITY CHARACTER**

The Manhattan Beach LCP includes the following relevant policies related to locating and

planning new residential development in the coastal zone:

**LUP Policy II.B.1 States: Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.**

**LUP Policy II.B.2 States: Maintain residential building bulk control established by development standards in Chapter 2 of the Implementation Plan.**

Chapter II of the IP includes the following policies:

**A.01.030. of Chapter 2 of the Certified Implementation Plan (IP) states:**

The broad purposes of the Zoning Code are to protect and promote the public health, safety, and general welfare, and to implement the policies of the Local Coastal Plan, as provided in the California Government Code, Title 7, Chapters 3 and 4 and in the California Constitution, Chapter 11, Section 7. More specifically, the Zoning code is intended to:

A. Provide a precise guide for the physical development of the Coastal Zone in order to:

1. Preserve the character and quality of residential neighborhoods consistent with the character of the two area districts of the Coastal Zone;
2. Foster convenient, harmonious, and workable relationships among land uses; and
3. Achieve progressively the arrangement of land uses described in the Local Coastal Plan.

**A.12.010 Specific Purposes (Residential Districts)** In addition to the general purposes listed in Chapter A.01; the specific purposes of residential districts are to:

- A. Provide appropriately located areas for residential development that are consistent with the Local Coastal Plan and with standards of public health and safety established by the City Code.
- B. Ensure adequate light, area, privacy, and open space for each dwelling and protect residents from harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects.
- C. Protect adjoining single-family residential districts from excessive loss of sun, light, quiet, and privacy resulting from proximity to multifamily development.
- D. Encourage reduced visual building bulk with effective setback, height, open space, site area, and similar standards, and provide incentives for retention of existing smaller homes. Include provision for an administrative Minor Exception

procedure to balance the retention of smaller older homes while still allowing for flexibility for building upgrades below the minimum allowable square footage.

**Section A.12.020 of Chapter 2 of the Certified Implementation Plan (IP)**

provides that single-family residences are permitted by right on RH properties and that multi-family residential development on RH properties are permitted by right to 5 or fewer units, and 6 or more units can be constructed with a Precise Development Plan or Site Specific Development Plan.

**Section A.12.030 of Chapter 2 of the Certified IP** dictates that the minimum lot area per dwelling unit for the RH district in Area III (Beach Area) is 850 sq. ft.

**Section 30250 of the Coastal Act states, in 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.

[Emphasis added]

**Section 30251 of the Coastal Act states, in 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.** [Emphasis added]

The City's LCP contains zoning and land use designations designed to promote and maintain community character. The LCP implements and is intended to carry out Section 30251 of the Coastal Act, which requires that new development shall be "visually compatible with the character of surrounding areas . . ." The proposed project consists of the demolition of an existing 1,568 sq. ft. single-family residence and an existing 2,556 sq. ft. triplex on two adjacent lots owned by the same applicant, a merger of the two lots (1312 The Strand is 2,987 sq. ft. and 1316 The Strand is 3,300 sq. ft.) into one 6,287 sq. ft. lot, and construction of a 9,920 sq. ft., 30-ft. high, two-story over basement, single family residence with an attached 845 sq. ft. three-car garage.

The Commission's action on November 4, 2020, to deny the Applicant's proposed project was based in part on the project's inconsistency with the community character policies of the City's certified LCP and the Coastal Act. In its decision denying the Applicant's petition

for writ of mandate, the trial court upheld the community character basis for the Commission's denial of the project, and this aspect of the Commission's November 4, 2020 decision is valid and is not required to be revisited in this hearing ([Exhibit 8 & 9](#)). The Commission hereby incorporates the community character findings of its November 4, 2020 decision ([Exhibit 12](#)), which continue to support denial of the Applicant's project.

The purpose of this re-hearing is to comply with the trial court's February 14, 2022 order directing the Commission to reconsider "whether, in light of the Court's Statement of Decision, a coastal development permit should have been denied for the demolition of the structures at 1312 The Strand and 1316 The Strand" ([Exhibit 9](#)). After consideration of the trial court's Statement of Decision, the Commission reaffirms its decision to deny Ms. Cotsen's permit applications for the following reasons.

#### The Commission Properly Reviewed and Denied the Project Proposed by the Applicant

In response to the trial court's order, the Commission finds that it properly reviewed the project proposed by the Applicant and before the Commission on appeal from the City of Manhattan Beach. Ms. Cotsen applied to the City for a coastal development permit to demolish the existing structures and construct a new single-family residence on her property. The Applicant did not propose only to demolish the existing triplex and single-family residence. The Applicant's clear intent was to build a new single-family residence across two adjacent lots, with the lot merger facilitating the construction of a much larger residence than currently exists on the site.<sup>1</sup> As the Commission previously found, and the trial court upheld, Ms. Cotsen's project is inconsistent with the LCP's community character policies and the Commission reasonably denied the project on that basis.

In reviewing Ms. Cotsen's applications, the Commission was not required to consider approving a coastal development permit for only the demolition portion of the project. In general, the Commission's responsibility under the Coastal Act is to review projects for consistency with the applicable certified Local Coastal Program (when projects are appealed to the Commission) or Chapter 3 of the Coastal Act (when projects are originally submitted to the Commission). For projects that are not consistent with the applicable standard of review, the Coastal Act does not require the Commission to redesign projects or impose conditions of approval to achieve consistency with LCP or Coastal Act policies. For example, in *LT-WR, L.L.C. v. California Coastal Commission*, the court of appeals rejected a similar argument by a project applicant, explaining that "the Commission is not required to redesign an applicant's project to make it acceptable . . . The denial of the instant proposal does not bar LT-WR from submitting a new and different proposal." 152 Cal.App.4th 770, 801 (internal references omitted). As in *LT-WR, L.L.C.*, and other similar cases,<sup>2</sup> the Commission has no obligation to redesign Ms. Cotsen's project or consider

---

<sup>1</sup> As the trial court found, after purchasing the adjacent lot, "Cotsen's intent is to demolish both her family house and the 1312 Property's triplex and build a single-family house for her family across both parcels." ([Exhibit 10](#)).

<sup>2</sup> See, e.g., *Reddell v. California Coastal Commission* (2009) 180 Cal.App.4th 956, rev. denied (Mar. 24, 2010) [rejecting applicant's argument that the Commission was required to approve his project with

approving only the demolition portion of the proposed development because this was not the project she had applied for or that had been approved by the City (and appealed to the Commission).

The Commission Is Not Required To Determine That Retention of the Existing Structures Is Feasible Under Section 30612 of the Coastal Act

In some cases, applicants have invoked Section 30612 of the Coastal Act to assert that the Commission must find that retention of existing structures is “feasible” in order to deny an application to demolish the structure, even if the project proposes both demolition and construction of new structures.<sup>3</sup> Section 30612 states that:

An application for a coastal development permit to demolish a structure shall not be denied unless the agency authorized to issue that permit, or the commission, on appeal, where appeal is authorized by this division, finds, based on a preponderance of the evidence, that retention of that structure is feasible.

Section 30612 is not relevant to the project denied by the Commission here because it applies only to an “application for a coastal development to demolish a structure.” Ms. Cotsen’s project did not involve an application only to demolish structures and, instead, involved a proposal to both demolish two structures and replace them with a new single-family residence. As explained by the court of appeals in an unpublished decision in *Sunshine Enterprises LP v. California Coastal Commission*, Section 30612 “does not require that the Commission determine feasibility of retaining a structure when a permit applicant . . . seeks not just to demolish a structure, but to replace the structure with new development.” ([Exhibit 11](#)).<sup>4</sup> Therefore, Section 30612 does not apply, and the Commission was not required to find that retention of the triplex and single-family residence is “feasible” before denying Ms. Cotsen’s application.<sup>5</sup>

---

conditions because Commission is not required to redesign an applicant’s project to make it acceptable]; *Bel Mar Estates v. California Coastal Commission* (1981) 115 Cal.App. 3d 936, 942 [“While, in some cases, the commission may find that, with relatively minor changes, a proposal may be modified so as to reduce effectively the environmental impact, we know of no requirement that the commission must, in every case, undertake to redesign a proposal so as to become acceptable”].

<sup>3</sup> Ms. Cotsen did not raise this argument in comments or during the public hearing on its permit applications in November 2020.

<sup>4</sup> The trial court in *Sunshine Enterprises LP v. California Coastal Commission* also held that the applicant for the project involved in that case “provides no authority that a permit with a dual purpose—demolition and construction—must meet the feasibility requirement of section 30612,” noting that the “application’s primary purpose was to construct a new hotel.” ([Exhibit 12](#)).

<sup>5</sup> The Commission’s findings in support of its denial of the project did note that the applicant “has not provided any information to indicate that that it would not be feasible to retain the existing triplex and

The Commission Declines To Approve a CDP for the Demolition Portion of the Project

Although the Commission is not required to do so, the Commission does have discretion in some situations to approve components of a project that are consistent with LCP or Coastal Act requirements and deny aspects of the project that are not. In this case, however, the Commission reasonably declines to approve only the demolition portion of the Applicant's project. As discussed above, and as found by the reviewing trial court, the Applicant's intended purpose "is to demolish both her family house and the 1312 Property's triplex and build a single-family house for her family across both parcels." [\(Exhibit 10\)](#). The Applicant did not propose only demolition of the existing structures, and it was (and is) clear that the entire purpose of this project is to construct a new, much larger house on the two merged lots. A project involving only demolition of the existing structures is an entirely different project than what was proposed by the Applicant, approved by the City, and appealed to the Commission.

In addition, the Coastal Act and implementing regulations anticipate that "functionally related development" performed by the same applicant will be the subject of a single permit application, not approved piecemeal (14 Cal. Code Regs. § 13053.4(a).) Given the obvious purpose of the Applicant's project, it makes more sense, and is likely more protective of coastal resources, to not bifurcate and approve the demolition component of Ms. Cotsen's project, so that the entirety of any new project, including demolition and any alternative new construction, may be considered as part of one application. The Commission sees no LCP or Coastal Act purposes that would be served by the approval of only demolition of the existing structures on Ms. Cotsen's property.

Finally, the Commission is mindful that it is reviewing Ms. Cotsen's applications on appeal from the City of Manhattan Beach. Under Section 30519(a) of the Coastal Act, once the Commission certifies a Local Coastal Program, development review authority is delegated to the local government that is implementing the local coastal program and "shall not be exercised by the commission over any new development proposed" within the area, except in the case of appeals to the Commission or where the Commission retains permitting authority. In areas with certified LCPs, like Manhattan Beach, the Commission's appellate review authority is limited to certain areas of the coastal zone, and only when appeals raise a "substantial issue" as to conformity with the certified LCP (Pub. Resource Code §§ 30603(a), 30625(b)(2)). The Act, therefore, contemplates that local governments will primarily review and approve development proposals in the first place, with the Commission exercising a much more limited role as an appellate body for only those projects that raise significant coastal resource issues. Given the Coastal Act's delegation of primary permitting authority to the City, and the clear purpose of this project to build a

---

single-family residence. Therefore, retention of the existing structures is considered feasible, and the Commission is under no obligation to approve demolition of the existing structures based on the available information." Thus, even if Section 30612 applied to this project, the Commission made the required feasibility finding.

new single-family home, a new demolition only project is more appropriately reviewed first by the City.

In summary, the Commission has considered the trial court's Statement of Decision and concludes that it was not required to evaluate the consistency of, nor would it be appropriate in this case to approve, the demolition component of the Applicant's proposed project as a stand-alone project. The Commission's denial of the Applicant's project as inconsistent with LCP community character policies was affirmed by the trial court. If the Applicant wishes to build a different structure (or structures) on her property, the Applicant may submit a new application to the City, the primary permitting authority for development in the Manhattan Beach coastal zone.

#### **E. LOCAL COASTAL PROGRAM**

The City of Manhattan Beach's Land Use Plan (LUP) was certified by the Commission in June of 1981. From 1992 through 1994, the City adopted and submitted to the Coastal Commission amendments to the LUP, which the Coastal Commission partially certified, pending the City's acceptance of suggested modifications to the Coastal Zoning Maps and LUP Policy Map related to designations for the El Porto area, the Metlox site, and the Santa Fe railroad right-of-way, and to certain designation titles, as well as a Coastal Access Map and text amendments to define the City's Coastal Permit jurisdiction as the land inland of the mean high tide line. The City accepted the Commission's suggested modifications, which the Executive Director determined was legally adequate, and the Commission concurred at its May 10-13th meeting in 1994, thus certifying the City of Manhattan Beach LCP. The City began issuing local coastal development permits shortly thereafter. The project site is located within the City of Manhattan Beach's certified jurisdiction and is subject to the policies of the certified LCP.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 City of Manhattan Beach is the lead agency for CEQA compliance and determined the project is Categorically Exempt per Section 15303 as "New Construction or Conversion of Small Structures" as the proposed construction consists of one single-family residence.

As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is not consistent with the development policies of the Coastal Act. As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as retaining the existing development or developing multi-family structures on the two lots. Therefore, the

proposed project is not consistent with CEQA or the policies of the Coastal Act because feasible alternatives exist which would lessen significant adverse impacts that the proposed project would have on the environment. Therefore, the Commission denies the proposed project because of the availability of environmentally preferable alternatives.

In any event, CEQA does not apply to private projects that public agencies deny or disapprove. Pub. Res. Code § 21080(b)(5). Accordingly, because the Commission denied the proposed project, it is not required to adopt findings regarding mitigation measures or alternatives.