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**CALIFORNIA COASTAL COMMISSION**

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



# Th13b

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Staff Report: 11/02/23  
Hearing Date: 11/16/23

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-23-0120

**Applicant:** Gage Village Residential Development LLC

**Agent:** Carlos Losada, Gage Village Residential Development LLC

**Location:** 16811 14<sup>th</sup> Street, Sunset Beach, Orange County (APN: 178-533-11)

**Project Description:** Application of Gage Village Residential Development LLC for the demolition of an existing two-story, 2,388 sq. ft. fourplex with three one-car garages and construction of a new three-story, 35-ft. tall, detached duplex. Each unit will be 2,642 sq. ft. and will include a roof deck and a two-car garage, located at 16811 14th Street, Sunset Beach, Orange County.

**Staff Recommendation:** Denial

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a two-story, 2,388 sq. ft. fourplex constructed in 1957, prior to the adoption of the Coastal Act, and to construct a detached 35-ft. high, three-story duplex (each 2,642 sq. ft. in size). Each unit includes an attached two-car garage and roof deck. No landscaping is proposed for the project. Proposed grading includes 30 cubic yards of cut and 30 cubic yards of fill ([Exhibit 2](#)).

The subject site is located in the Sunset Beach community in the City of Huntington Beach, Orange County, an uncertified area of the City of Huntington Beach. Therefore, the Commission is the permit-issuing entity for the proposed project and the standard of review is Chapter 3 of the Coastal Act. The City of Huntington Beach has reviewed the applicants' proposed plans and has approved the proposed project in concept.

The primary issue raised by this project concerns the cumulative effects of loss of housing density as a result of demolition of the existing fourplex and construction of a duplex. The Coastal Act encourages the concentration of new development in existing developed areas that are able to accommodate it in order to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (PRC 30250 and 30253(d)). These policies reflect an overarching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

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 30253 requires new development to minimize energy consumption and vehicle miles traveled. 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. Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities, and Section 30604(h) authorizes the Commission to consider environmental justice in its permitting decisions. Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities, and Section 30604(h) authorizes the Commission to consider environmental justice in its permitting decisions.

Ideally, housing density and siting issues are addressed in an area's LCP. Sunset Beach is an area that was formerly unincorporated Orange County area. Under the County's jurisdiction, Sunset Beach was subject to a certified LCP. The former County LCP for the area was effectively certified in 1982 and last updated in 1992. However, in August 2011, Sunset Beach was annexed by the City of Huntington Beach, resulting in the lapse of a certified LCP for Sunset Beach. The Sunset Beach area has not yet been incorporated into the City of Huntington Beach LCP. Therefore, the Commission is the permit-issuing entity for the proposed project and the Chapter 3 policies of the Coastal Act are the standard of review.

The County's previously certified Sunset Beach LCP may be used as guidance; however, it should be noted that the previously certified LCP is not the standard of review and was last reviewed by the Coastal Commission almost thirty years ago and does not adequately address a number of issues of current concern including

appropriate development setbacks from the seaward property line of beach-fronting lots and sea level rise concerns, which are likely to be a significant issue in the new LCP, given the high degree of sea level rise vulnerability in the area. The City has adopted equivalent land use and zoning designations for the site as those set forth in the former Orange County LCP for Sunset Beach. However, the Commission has not yet certified land use designations or zoning for the Sunset Beach area since it was annexed into the City.

The proposed project is not consistent with Sections 30250 and 30253 of the Coastal Act because the project, when viewed cumulatively with the overall housing crisis in California, does not concentrate development in appropriate areas that can accommodate it, and could result in cumulative adverse effects to coastal resources.

Furthermore, there are feasible alternatives—such as maintaining the existing fourplex or constructing a new duplex with two accessory dwelling units (ADUs)—that would maintain housing density at this location and be consistent with the Coastal Act. The applicant consulted with the City in order to determine the feasibility of constructing a duplex with two ADUs on the subject site. Based on that consultation, the City used policies from the uncertified Sunset Beach Specific Plan, which is not the standard of review, to determine that neither a fourplex nor a duplex with two ADUs/JADUs are appropriate developments on the subject lot. Therefore, the project could prejudice the City's ability to develop an LCP that is consistent with the Coastal Act.

Therefore, Commission staff recommends that the Commission DENY coastal development permit application 5-23-0120 as submitted by the applicant. The motion is on Page 5.

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## EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – CoSMoS Maps](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit No. 5-23-0120 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:

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act, and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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 applicant is proposing to demolish a two-story, 2,388 sq. ft. fourplex that was constructed in 1957, prior to passage of the Coastal Act, and to construct a detached 35-ft. high, three-story duplex (each 2,642 sq. ft. in size). Each unit includes an attached two-car garage and roof deck. No landscaping is proposed for the project ([Exhibit 2](#)). Proposed grading includes 30 cubic yards of cut and 30 cubic yards of fill.

The project site is designated as a Residential High Density – specific plan overlay (RH-sp). The project site is currently developed with a fourplex apartment building. The RH-sp zone allows single-family and multi-family residences to be developed. According to section 2.2.12 of the Sunset Beach Specific Plan, which is not the standard of review, “all legally created residential building sites shall be permitted only two dwelling units per site, unless approved otherwise prior to adoption of this Specific Plan.” The proposed development (a detached duplex) is permitted within the RH-sp zone.

The subject site is located at 16811 14<sup>th</sup> Street in the Sunset Beach community of the City of Huntington Beach, Orange County ([Exhibit 1](#)). The project site is a 2,700 sq. ft., rectangular-shaped lot located within an existing urban residential area on 14<sup>th</sup> Street and North Pacific Avenue. The subject lot is located approximately 280 ft. from the wide sandy public beach known as Sunset Beach. Sunset Beach is located on a low lying, relatively narrow strip of land between two waterbodies –the Pacific Ocean to the

southwest of the site and Huntington Harbor to the northeast. The project was approved in concept by the City of Huntington Beach on 4/12/2023.

Sunset Beach is an area that was formerly unincorporated Orange County area. Under the County's jurisdiction, Sunset Beach was subject to a certified Local Coastal Program (LCP). The former County LCP for the area was effectively certified in 1982 and last updated in 1992. However, in August 2011, Sunset Beach was annexed by the City of Huntington Beach, resulting in the lapse of a certified LCP for Sunset Beach. The Sunset Beach area has not yet been incorporated into the City of Huntington Beach LCP. Therefore, the Commission is the permit-issuing entity for the proposed project and the Chapter 3 policies of the Coastal Act are the standard of review. The County's previously certified Sunset Beach LCP may be used as guidance; however, it should be noted that the previously certified LCP was last reviewed by the Coastal Commission almost thirty years ago and does not adequately address a number of issues of current concern including appropriate development setbacks from the seaward property line of beach-fronting lots and sea level rise concerns, which are likely to be a significant issue in the new LCP, given the high degree of sea level rise vulnerability in the area.

The City has adopted equivalent land use and zoning designations for the site as those set forth in the former Orange County LCP for Sunset Beach. However, the Commission has not yet certified land use designations or zoning for the Sunset Beach area since it was annexed into the City.

## **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. New development in highly scenic areas such as those designated in the California Coastline Preservation

and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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...

Section 30604 of the Coastal Act states, in pertinent part:

Coastal development permit; issuance prior to certification of the local coastal program; finding that development in conformity with public access and public recreation policies; housing opportunities for low and moderate income persons...

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

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 30253 requires new development to minimize energy consumption and vehicle miles traveled. 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. Section 30251 requires that development shall be compatible with the character or the surrounding area. Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities in the coastal zone.

## Concentration of Development

The primary issue raised by this project is the reduction in housing density. The project site is zoned Residential High Density – specific plan overlay (RH-sp), which permits single-family and multi-family residences to be developed. The project site is currently developed with a fourplex apartment building. The proposed project will result in a reduction in housing density of two units. This 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. In recent actions, the Commission has expressed concern with similar projects that would result in the cumulative loss of housing density.

California is currently experiencing a severe housing supply shortage. The California Department of Housing and Community Development (HCD) projects that more than 2.5 million homes must be developed over an eight-year period to meet the housing needs of California residents, and at least one million of these must be developed to meet the needs of lower-income households.<sup>1</sup> For context, only approximately 867,000 total units were permitted in the state for the eight-year period of 2012-2020.<sup>2</sup> The City of Huntington Beach is required to plan for the development of 13,368 residential units, including 3,661 very low-income units and 2,184 low-income units, to meet the housing needs of all of its residents for the sixth cycle housing element planning period for the years 2021-2029.<sup>3</sup> However, only a small fraction of these units have been permitted.<sup>4</sup> Housing shortages throughout the state have been met with growing efforts to improve housing availability and affordability.

The State Legislature has declared that California is facing a severe housing shortage at all income levels, and that this severe shortage is a matter of statewide concern.<sup>5</sup> In response, the Legislature has passed nearly 100 housing-related measures in the past six years. The Housing Crisis Act of 2019 (HCA) encourages the maintenance of existing residential density by, among other requirements, prohibiting “affected” local governments from approving housing development projects that require demolition of one or more residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished (i.e. no net loss).<sup>6</sup> This prohibition

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<sup>1</sup> California Department of Housing and Community Development (HCD), 2022 Statewide Housing Plan, available at <https://statewide-housing-plan-cahcd.hub.arcgis.com/>.

<sup>2</sup> HCD, 2022 Statewide Housing Plan Story Map, available at <https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136/>.

<sup>3</sup> Southern California Association of Governments (SCAG), 6<sup>th</sup> Cycle Final Regional Housing Needs Allocation (RHNA) Allocation Plan (July 1, 2021), available at <https://scag.ca.gov/sites/main/files/file-attachments/6th-cycle-rhna-final-allocation-plan.pdf?1616462966>.

<sup>4</sup> According to HCD’s Housing Elements Annual Progress Report (APR) data, the City has permitted 301 of these units, including 127 very low-income units and 50 low-income units, for the sixth cycle planning period. This data is available at <https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard>.

<sup>5</sup> [Senate Bill 330](#) (Skinner), Stats. 2019, Ch. 654, Sec. 14.

<sup>6</sup> Gov. Code § 66300, subd. (d).



applies to the City of Huntington Beach as it is an “affected” city.<sup>7</sup> Here, the HCA would have prohibited the City from approving the proposed project because it requires demolition of one or more residential dwelling units and will not create at least as many residential dwelling units as will be demolished.<sup>8</sup> Although the HCA is not the standard of review for the Commission when reviewing a CDP application, the Commission can harmonize the goals of the HCA with the requirements of the Coastal Act where appropriate.<sup>9</sup> The HCA reveals the Legislature’s intent to protect existing housing units and density and can provide some context for other applicable laws when the Commission implements Coastal Act requirements that concentrate development in existing developed areas and minimize vehicle miles traveled. Thus, the Commission has emphasized the importance of preserving existing housing stock in already developed areas of the coastal zone where appropriate, thereby minimizing impacts to coastal resources (Coastal Act sections 30250 and 30253) and encouraging more affordable housing (Coastal Act section 30604(f)).

Concentrating development in existing developed areas provides more opportunities for people to live near places they work and recreate, such as the beach, and, thereby, reduces impacts to coastal resources. Impacts to roads and vehicle miles traveled would be reduced by having a higher density stock of housing located closer to employment and recreational opportunities within the coastal zone. Also, by having a higher residential density in an existing developed area, more people are placed in a shared location encouraging the utility of public transit service, which further aids in reducing the number of cars on streets, thus reducing impacts to coastal resources and public access. Siting dense development in urbanized areas reduces urban sprawl, and furthermore reduces the pressure to extend development into adjacent undeveloped areas, which may contain sensitive coastal resources.

Maintaining or increasing the existing housing density in areas with a public transit system and multi-modal transportation opportunities will help to reduce greenhouse gases that contribute to climate change and sea level rise. The project site is located in a dense, residentially zoned area where numerous opportunities are available. Grocery stores, shops, restaurants, and entertainment facilities are located within ½ a mile of the subject property, and can easily be accessed by walking, taking local buses, or by bicycle. In terms of regional public transit, the project site is located approximately 0.1 mile (an approximately three-minute walk) from a bus stop near the intersection at Pacific Coast Highway and Broadway. This bus stop is serviced by the Orange County

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<sup>7</sup> HCD Affected Cities (2023 update), available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/affected-cities.pdf>.

<sup>8</sup> Gov. Code § 66300, subd. (d).

<sup>9</sup> The HCA states that nothing in it supersedes, limits, or otherwise modifies the requirements of the Coastal Act, and that for housing development projects proposed in the coastal zone, nothing in the HCA shall be construed to prohibit an affected county or city from enacting a development policy, standard, or condition necessary to implement or amend a certified LCP consistent with the Coastal Act (Gov. Code § 66300, subd. (h)(2)).

Transit Authority 1 line, which connects beach cities between Long Beach and San Clemente via Pacific Coast Highway. Additionally, the project site is located approximately 0.7 miles (an approximately 15 minute walk) from a bus stop near the intersection at Pacific Coast Highway that is serviced by routes 70 and 72, leading inland to Tustin, in addition to Route 1. There is also a “sharrow” bicycle path immediately west of the site, along North and South Pacific Avenues, meaning bicycles may use the full lane along with cars. This lane links to the off-street, Class One (meaning the bike lane is completely separate from car traffic) beach bicycle path to the south, which extends from Bolsa Chica State Beach all the way to the City of Huntington Beach’s southern border, a distance of approximately 8½ miles. The beach bike path also links to inland areas via the striped, on-street bicycle lanes along Warner Avenue, Sea Pointe Street, Goldenwest Street, or from the Class One off-street bicycle path along the Santa Ana River. Thus, the project site is located in an area that is appropriate to maintain its current density because it is located in an already densely developed area that contains multi-modal transportation opportunities and a public transit system that connects to the greater Los Angeles region.

Besides the loss of two residential units resulting from the proposed project, the cumulative effect of the loss of residential housing in areas able to accommodate such density likely would increase long-term pressure to develop housing in other areas without adequate public transit and/or public services, thereby increasing reliance on automobiles (and, potentially, production of greenhouse gases), and in areas that are not appropriate for concentrated development. This is especially true in light of the severe statewide housing shortage and more specifically the projected housing needs of City of Huntington Beach residents.

Section 30604(f) of the Coastal Act directs the Commission to encourage low- and moderate-income housing opportunities in the coastal zone. It is difficult to predict exactly how housing affordability in Huntington Beach would be impacted by approval of the proposed project, however, the loss of housing supply on a broader scale is generally associated with increases in housing costs. One of the four current units is rented out for \$5,500/month, one is rented out for \$2,900/month, and two of the four units are rented out for \$1,897.50/month. As proposed, one of the duplex units would be owner-occupied, and the other unit would be rented out for \$5,500/month. Although it can be argued that the current rental rates are not affordable for low- to moderate-income households, if they are continued to be rented, the four units would potentially provide more housing opportunities for more people as compared to a duplex, where one of the two units would be owner-occupied. Denying the project, as recommended by staff, would not be inconsistent with direction in the Coastal Act to encourage affordable housing opportunities. However, long-term planning for concentration of development and encouragement of affordable housing should be done through a City’s LCP, as it is more difficult to assess in a meaningful way on a project-by-project basis.

As the recent changes to State housing laws demonstrate, given the existing housing shortages throughout the state, there is tremendous economic and political pressure to develop more housing opportunities; therefore, in the coastal zone, it is important to

maintain development in already developed and appropriate areas to ensure protection of coastal resources.

The Commission has, in some cases, approved ADUs/JADUs as mitigation for projects that would result in a loss of density. These approvals have typically involved situations where an existing multi-family structure was non-conforming with the density specifications or other development standards of a certified LUP and it was not possible to replace the lost unit with a full replacement unit.<sup>10</sup> Past Commission approvals of these types of projects were considered as a compromise approach when there was no other option for a property owner to redevelop a site with an aging residential structure while maintaining the same number of housing units consistent with the certified LUP. In this case, the structures on the project site are legally nonconforming, meaning that they were consistent with applicable requirements at the time that they were built, but they no longer conform to the previously certified Sunset Beach LCP, nor the City of Huntington Beach's equivalent land use and zoning designations.<sup>11</sup> However, the previously certified Sunset Beach LCP and the City of Huntington Beach's equivalent land use and zoning designations are not the standard of review here.

The development of multiple ADUs in conjunction with a duplex on the project site is consistent with Chapter 3 policies of the Coastal Act. In addition, more than one ADU on the project site appears consistent with statewide ADU law.<sup>12</sup> In this case, Commission staff requested that the applicant provide a feasibility study to show the possibility of providing either ADUs or JADUs with the duplex. The applicant provided the following responses from the City: "[u]nder the current State Guidance for ADU's, this project also would not qualify for having a Duplex with 2 ADU's. Per state guidelines we would need a minimum of 5 units to satisfy this condition." In response to the alternative that would provide two JADUs with the duplex, the City stated that "[j]unior ADU's are not allowed on this type of development per Specific plan or State Guidance". As such, the applicant has not proposed to off-set the loss of the residential units, either with full primary units or with ADUs/JADUs.

Because the uncertified Specific Plan is not the standard of review, Commission staff believes that ADUs are likely an allowable and viable option for maintaining density on the project site. Government Code Section 65852.2, subd. (e)(1), requires in relevant part that local governments approve *any* of the following: (i) multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space; (ii) at least one ADU within an existing multifamily dwelling; and (iii) not more than two detached ADUs that are located on a lot that has an existing or proposed multifamily

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<sup>10</sup> Refer to CDP Nos. 5-19-1244; 5-20-0142; 5-20-0223, approved by the Commission at the September 2020 hearing.

<sup>11</sup> The previously Sunset Beach LCP, City of Huntington Beach land use and zoning designations for this project site and for Sunset Beach are not certified and are not the standard of review, however they can be used as guidance.

<sup>12</sup> Gov. Code § 65852.2.

dwelling and that meet certain height and setback limits.<sup>13</sup> HCD states in its Accessory Dwelling Units Handbook that these categories can be combined.<sup>14</sup> For example, local governments must allow multiple ADUs within the portions of multifamily structures that are not used as livable space and up to two detached ADUs on lots with an existing or proposed multifamily dwelling. Thus, Commission staff understands state ADU laws to generally allow for the development of more than one ADU on lots zoned multifamily and with existing or proposed multifamily dwellings, and as such, disagrees with the City's assessment of the feasibility of the construction of ADUs on the site based on the information provided to the Commission. Regardless, the standard of review is Chapter 3 of the Coastal Act and not the City's uncertified land use and zoning codes.

Therefore, the proposed project is not consistent with Sections 30250 and 30253 of the Coastal Act because the project, when viewed cumulatively with other similar projects in the area, does not concentrate development in appropriate areas that can accommodate the existing housing density. The neighborhood in which the project site is located is currently made up of single-family residences and multi-family residences that contain between two or more residential units per lot. Approval of two residential units on a lot that can accommodate additional units could set a precedent to redevelop other surrounding multifamily residences with fewer units. This would cumulatively eliminate several units in an area that can accommodate them. The project site is well-served by public transportation and other amenities. Therefore, the project could prejudice the ability for the City of Huntington Beach to develop an LCP that is consistent with the Coastal Act.

### **Community Character**

Although the subject project does not propose to convert a multi-family home into a single-family home, it would result in the loss of housing density in the City's coastal zone. In the past, the Commission's approval of projects that would reduce housing density typically relied on Chapter 3 policies or certified LUP policies relating to the individual 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, however, 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>15</sup>

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<sup>13</sup> Gov. Code § 65852.2, subd. (l) states that nothing in this law shall be construed to supersede or in any way alter or lessen the effect or application of the Coastal Act, except that the local government shall not be required to hold public hearings for CDP applications for ADUs.

<sup>14</sup> HCD Accessory Dwelling Unit Handbook (2022), available at <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>.

<sup>15</sup> Refer to the staff report for CDP Application No. 5-18-0380 (S.M. Star, LLC)

For the proposed project, Commission staff analyzed housing data from LandVision, a real estate mapping tool. According to LandVision, within the surrounding area, 28 lots are currently developed with two or more units. Of these 28 properties, nine are developed with duplexes, nine are developed with triplexes, three are developed with a quadraplex, four are developed with a multi-family structure of two to four units, and three are developed with a multi-family residential structure of five units or more.

The City and the applicant have been unable to provide measurements for the current units. However, a two-unit building on the same size site that previously held a four-unit building inherently means that the units will be larger. Larger units are generally more expensive. Thus, this project furthers the trend towards larger, more expensive units and the loss of denser, more affordable housing. By removing one of the last remaining four-unit buildings in the area, the community in the surrounding areas could trend away from characterizing affordable homes and trend towards exclusively high-income housing.

The community character analysis indicates that the surrounding neighborhood is a mix of single and multi-family homes. Given that the subject lot currently accommodates four residential units, approving only two residential units onsite as proposed has the potential to set a negative precedent within the project vicinity. If this project is approved, other similarly developed lots with three or more onsite residences within this area could redevelop the lots with fewer onsite units, which may cumulatively eliminate many more units in an area able to accommodate them. This would therefore prejudice the ability of the City of Huntington Beach to develop their LCP consistent with the Chapter 3 Coastal Act policies. On the other hand, a fourplex or a duplex with two ADUs is appropriate development in this location and is consistent with Chapter 3 of the Coastal Act and compatible with the character of the surrounding area. Thus, there is an alternative form of development that could be approved on the project site. Overall, the character of the neighborhood supports the maintenance of existing housing units, consistent with Coastal Act Sections 30250 and 30253 with regard to siting development in areas that can accommodate it. The re-development of two residential units on a lot that can support four residential units in this area could have a cumulative impact on the overall character of the surrounding area, inconsistent with Section 30251 of the Coastal Act.

## **Conclusion**

In this case, the proposed project is not consistent with Sections 30250, 30251, and 30253 of the Coastal Act because the project, when viewed cumulatively with other similar projects in the area, does not concentrate development in appropriate areas that can accommodate the existing housing density, and minimize impacts to coastal resources. The neighborhood in which the project site is located is designated RH-sp, and is made up of both single family and multi-family residences that contain two or more residential units per lot. The project site is well-served by public transportation and

other amenities. Under the City's current uncertified land use and zoning codes for Sunset Beach, only two units could be developed on the site. However, the standard of review for a CDP is the Coastal Act, not the City's uncertified zoning code. Therefore, the project could prejudice the ability for the City of Huntington Beach to develop an LCP that is consistent with the Coastal Act. For the reasons stated above, the Commission denies the proposed project.

### **C. Public Access**

Coastal Act Section 30210 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 30214 of the Coastal Act states, in relevant part:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
  - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
  - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

Section 30221 of the Coastal Act states:

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

As reflected in the policies cited above, the Coastal Act requires that public access to the shoreline be maximized. Coastal Act Section 30221 requires that oceanfront land suitable for recreational use be protected for recreational use, unless demand for such a use is or likely will be provided elsewhere in the area. With expected future sea level rise and resulting coastal erosion, it is likely that future demand for public recreational activities, such as use of the sandy beach, will need to be accommodated on smaller, narrower beaches. In addition, the population is expected to continue to increase. The amount of sandy beach will decrease while the demand for sandy beach areas will increase.

As proposed, the project would be consistent with the requirements of Coastal Act Section 30210 to maximize public access. The proposed development will be consistent with Section 30221, in that it will not interfere with land suitable for recreational use (the sandy public beach area). The project site is located approximately 280 ft. from the sandy beach. Vertical access from the subject site to the public beach is available approximately 250 ft. west of the site, at the end of 14<sup>th</sup> Street. The project proposes four parking spaces for the proposed development. Each unit includes an attached two-car garage. The parking garage for unit A would be accessed through an alleyway, and the parking garage for unit B would be accessed from North Pacific Avenue. The proposed parking for the project is consistent with the parking standards of the Coastal Act. Additionally, no existing public parking spaces will be lost as a result of the proposed project. The proposed residence also adheres to the height, side-yard setback, and rear-yard setback set forth in the uncertified LCP and uncertified zoning code. Therefore, the proposed development would not have any new adverse impacts on public access to the coast or to nearby recreational facilities.

As proposed, the development conforms to Sections 30210, 30211, and 30212 of the Coastal Act. However, the proposed development is not consistent with the development policies found in Chapter 3 of the Coastal Act (as discussed above). Therefore, the project as proposed by the applicant must be denied.

#### **D. Coastal 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.

Due to its low-lying location between the oceanfront and the harbor, an inherently dynamic and potentially hazardous area, the project site must be examined for the potential for erosion, flooding, wave attack and wave runoff hazards, including consideration of potential impacts due to severe storm events. Moreover, these hazards may be exacerbated by expected future sea level rise, which must also be considered.

The Sunset Beach community, where the subject site is located, has historically been subject to flooding and damage resulting from wave action during storm conditions, as well as flooding from the harbor area during high tides, which worsens under storm conditions. Past occurrences of ocean flooding and storms have resulted in millions of dollars of public costs for public service (including the U.S. Army Corps of Engineers - led periodic beach replenishment program that has been ongoing for more than 50

years; and annual construction of a seasonal berm across the beach, originally constructed by the County, and now by the City of Huntington Beach). Specifically, the El Niño storms of 1982/83 caused significant damage in both Sunset Beach and neighboring Surfside, both from the ocean and from flooding from the harbor. Indeed, it was the damage from this storm that led to the annual construction (without benefit of a CDP) of the seasonal berm across Sunset Beach, and in the one-time construction of the “vegetated berm” (also without a CDP) located just seaward of the beachfront residential development in Sunset Beach. Moreover, flooding of areas along Pacific Coast Highway from Huntington Harbor occurs in Sunset Beach now with extreme high tides. This flooding is worsened when high tides occur together with storm activity. Moreover, USGS CoSMoS, the best available regional sea level rise modeling tool, shows that the subject site and surrounding area may be significantly impacted by future sea level rise ([Exhibit 3](#)) and related flooding. Impacts due to expected future sea level rise flooding will be worse when storm activity is also factored in. Public costs are incurred with each incident, including for pumping flooded areas, clearing blocked storm drains, and clean up.

The main concerns raised by the proposed development include the potential exposure of the proposed development to coastal flood and/or erosion hazards and whether future hazardous conditions (including the possibility of flooding from either the beach or harbor) might eventually lead to a request to build a shoreline protection device to protect the proposed development.

Sea level rise models suggest the site will likely become at risk within the expected 75-year life of the proposed residence ([Exhibit 3](#)). To address questions raised by these issues, the applicant’s coastal engineer provided a Coastal Hazard Study (Residential Properties 16811 14th Street Huntington Beach, CA Coastal Hazards Analysis, prepared by Gregory Reid of StreamlineWest Engineering, LLC., in March of 2023). The Study concludes:

According to the Ocean Protection Council State of California Sea-Level Rise Guidance, 2018 Update, SLR will not affect the subject sites within their design lives (75 years) if the more likely Low Risk Aversion projection (including high emission rates) occurs. However, the less likely Medium-High Risk aversion (assuming high emissions) scenario (0.5% probability) does begin to affect the lower level of the residences but only towards the end of the structures design lives (2083 and 2085) and only during a 100year flood event (1% probability). Since the properties are not along the waterfront, the potential future impact for the less likely SLR scenarios would be flooding of the site with debris displacement and localized erosion as food waters surge and recede.

The Study finds that under a Low Risk Aversion Scenario and a 100-year storm event, the subject site is likely not going to be impacted by coastal hazards because the proposed elevation of the first floor is higher than the maximum wave runup calculated in the report under this SLR scenario (first floor = 10.05 ft. NAVD88). However, the 2018 OPC State Sea Level Rise Guidance and 2018 Coastal Commission Sea Level Rise Policy Guidance, which contain the current best available science on sea level rise,



provide that proposals for residential structures, such as the proposed development, should use the sea level rise projections associated with Medium-High risk aversion, which is 6.7 ft. of sea level rise by the year 2100 and about 6 ft. by the year 2095. These SLR scenarios are higher than the consultant's scenario.

Based on CoSMoS modeling, the site will begin to become threatened with about 0.8 ft. of sea level rise and no storm or with 0 ft. of SLR with a 100-year storm ([Exhibit 3](#)). SLR medium-high risk aversion projections for the Los Angeles tide gauge indicate that 4.9 ft. of SLR is expected to occur sometime between 2080 and 2090, and 4.1 ft. of sea level rise is expected to occur sometime between 2070 and 2080. Thus, applying the best available science standard, the proposed development may be threatened prior to the end of its expected 75-year life, as soon as sometime between 2070 and 2080. In addition, the updated Rising Seas science report and OPC Guidance also recognize the possibility of an extreme scenario (termed the "H++" scenario) of 9.9 ft. of sea level rise by 2100 associated with possible future rapid ice sheet loss.

### **Adverse Coastal Impacts Due to Shoreline Protection Devices**

The Coastal Act discourages shoreline protection devices because they generally cause significant impacts on coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. This is expected to be exacerbated with future sea level rise. Shoreline protective devices, by their very nature, tend to conflict with various Commission approved LCP and Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically prohibits development that could "...create [or] contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." Coastal hazards and shoreline protective devices also raise public trust concerns. The common law public trust doctrine protects the public's right to access tidelands, submerged lands, and navigable waters, which the State holds in trust for the public's use and enjoyment. Private residential uses are not public trust uses and the existence of private residential uses, such as the proposed project, on future public trust lands likely would conflict with the public's right to use and enjoy such lands.

In order to ensure that new development is sited and designed to not create or contribute significantly to the destruction of the site or surrounding area through construction of protective devices, it is important to assure that new development (such as a major remodel which constitutes new development, as is being proposed here) not be permitted shoreline protection to the extent such shoreline protection would be inconsistent with Coastal Act Chapter 3 coastal resource policies. If it is known that the development requires shoreline protection, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act which, as stated above, requires that new development not create nor contribute significantly to erosion,

geologic instability, or destruction of the site or surrounding area, given the well-known coastal resource impacts that shoreline protection typically causes. In this case, the applicant is not proposing any shoreline protective devices.

The Commission would typically impose special conditions that require the applicant to assume the risks of developing in a hazardous area and to waive future rights to shoreline protection in order to find the project consistent with Coastal Act Section 30253. However, the Commission finds that the project, as proposed by the applicant, is inconsistent with the development policies found in Chapter 3 of the Coastal Act (as discussed above). Therefore, the project should be denied.

## **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 shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column.

### **Post-Construction Impacts to Water Quality**

The proposed project has the potential to adversely impact the water quality of the nearby Pacific Ocean. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. In order to address post construction water quality impacts, the applicant has submitted a drainage and runoff control plan that minimizes impacts to water quality the proposed project may have after construction. The applicant has provided a drainage plan which indicates that roof and surface runoff will be managed onsite through the use of downspouts to capture and filter runoff and direct flow to trench drains, catch basins, and gravel pits on the property.

For water conservation, any plants in the landscape plan shall be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The applicant has not proposed any landscaping as part of the subject project.

The Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act regarding protection of marine resources and water quality. However, the Commission finds that the project, as proposed by the applicant, is inconsistent with the development policies found in Chapter 3 of the Coastal Act (as discussed above). Therefore, the project should be denied.

### **F. Local Coastal Program (LCP)**

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. Orange County's LCP for Sunset Beach was effectively certified in 1982 and updated in 1992. However, Sunset Beach was annexed into the City of Huntington Beach effective August 2011. This annexation terminated the County's LCP permitting jurisdiction for the area. The Sunset Beach annexation area has not yet been incorporated into the City of Huntington Beach certified LCP. Thus, there is not currently an effective certified LCP for Sunset Beach and, therefore, the Chapter 3 policies of the Coastal Act provide the standard of review for coastal development permits in the area. The previously certified Sunset Beach LCP may be used as guidance where appropriate.

Long-term planning for concentration of development and encouragement of housing density and affordable housing should be done comprehensively through a City's LCP,

as it is more difficult to do in a meaningful way on a project-by-project basis. However, until an LCP is developed that addresses the above-mentioned issues, the Commission must evaluate each project on a case-by-case basis to ensure that the project will not prejudice the ability for the City to develop an LCP that is consistent with the Coastal Act. In this case, the project, which proposes a reduction of existing residential units, is inconsistent with Chapter 3 of the Coastal Act, and is part of a broader housing trend in California of similar redevelopment projects that reduce housing density. Therefore, approval of the project would prejudice the ability of the City to develop a LCP that is in conformity with Chapter 3 of the Coastal Act.

## **G. Project Alternatives**

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property, nor unreasonably limit the owner's reasonable investment-backed expectations of significant economic value on the property. Alternatives to the proposed development exist. Among the possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of all possible alternatives):

### **1. No project**

The applicant could retain the existing fourplex without structural renovations that would require a CDP. No changes to the existing site conditions would result from the "no project" alternative. One of the four current units is rented out for \$5,500/month, one is rented out for \$2,900/month, and two of the four units are rented out for \$1,897.50/month. As proposed, one of the duplex units would be owner-occupied, and the other unit would be rented out for \$5,500/month. Although it can be argued that the current rental rates are not affordable for low- to moderate-income households, if they are continued to be rented, the four units would potentially provide more housing opportunities for more people as compared to a duplex, where one of the two units would be owner-occupied. In addition, development would continue to be concentrated in an already developed area that is well-served by public transportation and public amenities, thus, avoiding adverse impacts to coastal resources.

Under Section 30612 of the Coastal Act, if the Commission denies a permit to demolish a structure, the Commission must find, based on a preponderance of the evidence, that retaining the structure is "feasible." The project, as proposed by the applicant, includes demolition of a fourplex and construction of a detached duplex.

The fourplex was constructed in 1957, before the Coastal Act was passed. The existing structures are approximately 66 years old, which is within the anticipated life of a residential structure (structures are typically expected to last for 75 years). The applicant has not provided any information to indicate that that it would not be feasible to retain or improve the existing fourplex. The project site is also not located in an inherently hazardous area (i.e. ocean-fronting; bluff-backing), nor does it appear that any local regulations require removal of the structure at this time. Therefore, retention of

the existing fourplex appears to be feasible, and the Commission is under no obligation to approve demolition of the existing structures based on the available information.

## **2. Construct a Duplex with Two ADUs**

Alternatively, the applicant could demolish the existing residences and construct a new duplex and two ADUs. This alternative would retain four residential units on site. As stated previously, the project site consists of a 2,700 sq. ft. lot that is located in the RH-sp zone. The project site is currently developed with a fourplex apartment building zone, which allows single family dwellings and duplexes. Although not the standard of review, State ADU laws allow for the addition of ADUs without increasing the number of units onsite. Therefore, construction of a duplex with two ADUs could be found to be consistent with the Chapter 3 Coastal Act policies.

Because the City's land use and zoning codes have not been reviewed or certified for consistency with the Coastal Act by the Commission, they are not the standard of review for this project for the purposes of obtaining a CDP. Therefore, based on the evidence currently before the Commission, construction of a duplex with two ADUs is a potential alternative to the proposed project.

## **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).)

The City of Huntington Beach is the lead agency responsible for CEQA review. The City determined that the project qualifies for a CEQA exemption. Typically, projects are exempt from CEQA pursuant to section 15303(a) of the CEQA Guidelines when they consist of construction of one single-family residence located within an urbanized residential zone.

As a responsible agency under CEQA, the Commission has determined that the proposed project is not consistent with the development policies of the Coastal Act. As described above, the proposed project would have adverse environmental impacts, including cumulative effects to housing density and community character in Huntington Beach. There are feasible alternatives or mitigation measures available, such as maintaining the existing fourplex or developing a new duplex with two ADUs/JADUs on the site. 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.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. Coastal Development Permit Application No. 5-23-0120 and associated file documents.