
CALIFORNIA COASTAL COMMISSION

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



Th12d

Filed: 04/19/23
270th Day: 01/14/24
Staff: K. Tomaier -LB
Staff Report: 11/30/23
Hearing Date: 12/14/23

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 14th Street, Sunset Beach, Orange County (APN: 178-533-11)

Project Description: Demolition of a two-story, 2,388 sq. ft. fourplex with three one-car garages and construction of two new three-story, 35-ft. tall, detached condominiums each with an approximately 445 sq. ft. Accessory Dwelling Unit (ADU). Each primary residential unit will be 2,069 sq. ft. and will include a roof deck and a two-car garage.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to demolish a two-story, 2,388 sq. ft. fourplex consisting of four approximately 417 sq. ft. units (according to the applicant), constructed in 1957, prior to the adoption of the Coastal Act, and to construct two detached 35-ft. high, three-story condominiums (each approximately 2,069 sq. ft. in size), and one approximately 445 sq. ft. ADU for each primary unit. Each primary residential 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 applicant initially proposed to demolish the fourplex and construct a detached duplex with no ADUs. After working with Commission staff, the applicant revised the project design to the current proposal.

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 applicant's proposed plans and has approved the proposed project in concept.

The primary issue raised by the proposed project concerns the cumulative effects of loss of housing density. 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. To address these impacts, the Commission staff coordinated with the applicant to revise the project proposed and is recommending approval with special conditions.

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.

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 (SLR) 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.

On November 28, 2023, the Commission received a revised project proposal for two condominiums and two ADUs with design modifications to ensure that the proposed ADUs are daylit, have separate entrances, and are similar in size to the existing smaller units on the site (approximately 400 sq. ft., as determined by the applicant).

In addition to retaining the number of residential units, maintaining parity between the existing units and the new units is necessary to provide comparable housing opportunities. To prevent adverse impacts to housing opportunities in the coastal zone, it is necessary to ensure that neither of the new ADUs are smaller than the smaller of the existing units. To ensure that the ADUs are only accessible through an external door and will create units for separate use from the primary residences, Commission imposes **Special Condition 1** requiring the applicant to submit revised final plans which must be approved in concept by the City of Huntington Beach and incorporate two detached condominiums (two full units) and two approximately 445 sq. ft. ADUs, without an interior ingress and egress between the ADU and the primary residences. **Special Condition 2** requires that the ADUs, if the project were to be revised further, shall be similar in size to the current units existing onsite (approximately 400 sq. ft.). **Special Condition 2** further requires the applicant to maintain two detached condominiums and two attached ADUs on-site and that the ADUs, if the project were to be revised further, shall be at least the size of the existing units onsite (417 sq. ft.), and ensure that the units are not used as short-term rentals without owner occupation.

As proposed and conditioned, the project is consistent with Sections 30250 and 30253 of the Coastal Act because the project maintains residential units in a developed area able to accommodate it and will not result in cumulative adverse effects to coastal resources.

The proposed project also raises concerns regarding the impacts of coastal hazards associated with SLR. Although the project site is not located within the first line of development adjacent to the ocean, the site is within a large, low-lying coastal area that

is vulnerable to flooding under a minimum of 3.3 feet of SLR. Based on CoSMoS modeling, the site will begin to become threatened with about 0.8 ft. of SLR 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.

Given the project site’s location within a potentially hazardous area, the applicant has proposed to elevate the finished floor of the foundation to be 10.05 ft. NAVD88, as well as waterproofing the exterior of all concrete foundation walls. While the applicant has attempted to account for coastal flooding risks, the adaptation measure of elevating the structure and waterproofing the foundation may not be enough to withstand the flooding that is projected to impact the project site with a minimum 3.3 ft. of SLR. Because the proposed project constitutes new development, it is not entitled to shoreline protection under Section 30235 of the Coastal Act. Therefore, staff recommends the Commission impose **Special Condition 3** and **Special Condition 4**, requiring the applicant to acknowledge that no shoreline protective device may ever be constructed to protect the duplex unit, even if it is threatened by coastal hazards in the future, and assume the risks of developing the residence in an inherently hazardous area.

During and post-construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, staff recommends the Commission impose **Special Condition 5** which provides standards for the safe storage of construction materials and the safe disposal of construction debris.

To ensure that any prospective future owner(s) of the property is made aware of the applicability of the conditions of this permit, staff recommends the Commission impose **Special Condition 6** which requires the property owner to record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property.

Staff is recommending **APPROVAL** of the proposed project with seven (7) special conditions: 1) revised final plans; 2) retention of four units onsite; 3) no future shoreline protection device and removal of development under specific circumstances if threatened; 4) assumption of risk; 5) appropriate storage of construction materials, mechanized equipment and removal of construction debris; 6) recordation of a deed restriction against the property referencing all of the special conditions imposed by the Commission; and 7) requirement to obtain a coastal development permit for future development.

The motion to approve the CDP application is on **Page 7**. The special conditions begin on **Page 8**.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	7
II. STANDARD CONDITIONS	7
III. SPECIAL CONDITIONS	8
IV. FINDINGS AND DECLARATIONS	11
Project Description and Location	11
Development	12
Coastal Hazards	20
Public Access	25
Water Quality	27
Deed Restriction	29
Local Coastal Program (LCP).....	29
California Environmental Quality Act	29
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS	30

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 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not 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 complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided that the assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind

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

III. SPECIAL CONDITIONS

1. **Revised Final Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two sets of final revised project plans that have been reviewed and approved by the City of Huntington Beach. The final revised plans shall conform with the preliminary plans submitted to the Commission and prepared by Funes Architecture dated 11/28/23, except that it shall be modified as required below.
 - A. The plan shall include two attached ADUs that are a minimum of 445 sq. ft.
 - B. The plans shall not include any interior ingresses and egresses (doors) between the ADUs and the primary residences.

The applicant shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. **Retention of Four Onsite Units.** The development approved by Coastal Development Permit No. 5-23-0120 is for construction of two detached condominiums, each containing an attached approximately 445 sq. ft. accessory dwelling unit (ADU). The applicant and all assigns/successors shall maintain the ADUs as separate residential units. At no point may the ADUs be incorporated into the condominiums or converted to a nonresidential use. Additionally, the units may not be used as short-term rentals without owner occupation.
3. **No Future Shoreline Protective Device.**
 - A. By acceptance of this permit, the permittee agrees, on behalf of itself and any successors and assigns, that no shoreline protective device(s) shall be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-23-0120 including, but not limited to, the residences, ADUs, garages, balconies, patio, roof deck, foundation and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable law.
 - B. By acceptance of this Permit, the permittee further agrees, on behalf of itself and any successors and assigns, that the permittee is required to

remove all or a portion of the development authorized by the permit and restore the site, if:

- i. The City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no measures that could make the structures suitable for habitation or use without the use of shoreline protective devices;
- ii. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above; or
- iii. Removal is required pursuant to future LCP policies for sea level rise adaptation planning; or
- iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP no. 5-23-0120 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachments onto public trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

4. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards including but not limited to waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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

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

- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- N. During construction of the project, no runoff, site drainage or dewatering shall be directed from the site into any street, alley or stormdrain, unless specifically authorized by the California Regional Water Quality Control Board.

- 6. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant/ landowner shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) has/have executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction recorded against title to the property shall include a legal description of that entire parcel. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
- 7. Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-23-0120. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-23-0120. Accordingly, any future improvements to the space pursued under this Coastal Development Permit No. 5-23-0120, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-23-0120 from the Commission or shall require a new, additional coastal development permit from the Commission or from the applicable certified local government.

IV. 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 two detached 35-ft. high, three-story, 2,069 sq. ft. condominiums. Each condominium will also include an approximately 445 sq. ft. attached ADU on the first floor, 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 located at 16811 14th 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 14th Street and North Pacific Avenue. The project site is designated as Residential – High Density

in the formerly certified Sunset Beach LCP, and as a Residential High Density – specific plan overlay (RH-sp) in the City of Huntington Beach’s uncertified zoning code. 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 (two detached condominiums and two ADUs) is permitted within the RH-sp zone. 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.

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. Nevertheless, it is worth noting that the proposed project is consistent with many of the development standards that would have been applicable to the proposed project under the old Sunset Beach LCP. The old LCP designated the site Sunset Beach Residential – High Density. The two proposed condominium units are consistent with this designation. The project meets the old LCP’s height restriction of 35 ft. for the Sunset Beach Residential zone, which is also the City’s current height limit. In addition, the design of the proposed residences is consistent with existing surrounding residential development along Pacific Avenue in Sunset Beach. Within the area of Sunset Beach where the subject site is located, the majority of lots are developed with single and multi-family residences, similar to the proposed project, including similar heights and square footage.

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 designated as Residential – High Density in the formerly certified Sunset Beach LCP, and as a Residential High Density – specific plan overlay (RH-sp) in the City of Huntington Beach’s uncertified zoning code, 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.¹ For context, only approximately 867,000 total units were permitted in the state for the eight-year period of 2012-2020.² 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

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

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

needs of all of its residents for the sixth cycle housing element planning period for the years 2021-2029.³ However, only a small fraction of these units have been permitted.⁴ 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.⁵ 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).⁶ This prohibition applies to the City of Huntington Beach as it is an “affected” city.⁷ 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.⁸ Although the HCA is not the standard of review for the Commission when reviewing a CDP application, the Coastal Act also encourages concentration of development in developed areas, consistent with many of the goals of the HCA.⁹ 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,

³ Southern California Association of Governments (SCAG), 6th 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>.

⁴ 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>.

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

⁶ Gov. Code § 66300, subd. (d).

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

⁸ Gov. Code § 66300, subd. (d).

⁹ 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)).

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 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 originally 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.

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.¹⁰ 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.¹¹ 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 two condominiums 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.¹² In this case, Commission staff requested that the applicant provide a feasibility study to show the possibility of providing either ADUs or JADUs in each of the proposed condominiums. The applicant provided the current proposal, two detached condominiums each containing an attached ADU, arguing that this is the only feasible option for maintaining housing density onsite consistent with the uncertified zoning code. Therefore, given the constraints of redeveloping the lot so that the new structures are legally conforming, the applicant revised the project description to the proposed two condominiums and two ADUs.

Because the uncertified Specific Plan is not the standard of review, Commission staff believes that ADUs are 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

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

¹¹ 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.

¹² Gov. Code § 65852.2.

detached ADUs that are located on a lot that has an existing or proposed multifamily dwelling and that meet certain height and setback limits.¹³ HCD states in its Accessory Dwelling Units Handbook that these categories can be combined.¹⁴ 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.

To ensure that the ADUs are only accessible through an external door and will create units for separate use from the primary residences, Commission imposes **Special Condition 1** requiring the applicant to submit revised final plans which must be approved in concept by the City of Huntington Beach and incorporate two detached condominiums (two full units) and two approximately 445 sq. ft. ADUs, without an interior ingress and egress between the ADU and the primary residences. In addition to retaining the number of residential units, maintaining parity between the existing units and the new units is necessary to provide comparable housing opportunities. To prevent adverse impacts to housing opportunities in the coastal zone, it is necessary to ensure that neither of the new ADUs are smaller than the smaller of the existing units. **Special Condition 2** requires that the ADUs, if the project were to be revised further, shall be similar in size to the current units existing onsite (approximately 400 sq. ft.). **Special Condition 2** further requires the applicant to maintain two detached condominiums and two attached ADUs on-site and that the ADUs, if the project were to be revised further, shall be at least the size of the existing units onsite (417 sq. ft.), and ensure that the units are not used as short-term rentals without owner occupation.

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In further consideration of the need to concentrate development in areas that can accommodate it, as well as the hazardous project location, the Commission finds that it is necessary to impose **Special Condition 7** prohibiting the construction of future improvements to the proposed condominium units without first obtaining an amendment to this permit or a new coastal development permit.

¹³ 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.

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

As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

Community Character

In order to better understand the character of the neighborhood, 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 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, two condominiums with two attached 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. Overall, the character of the neighborhood supports the proposal for two primary units each with an ADU in this location, consistent with Coastal Act Sections 30250 and 30253 with regard to siting development in areas that can accommodate it. As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Sections 30250 and 30251 of the Coastal Act pertaining to new development and community character.

Conclusion

In this case, the proposed project as conditioned is consistent with Sections 30250, 30251, and 30253 of the Coastal Act because the project, when viewed cumulatively with other similar projects in the area, concentrates development in appropriate areas that can accommodate the existing housing density, and minimizes 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. In this case, mitigation for the loss of two of the four residential units with two ADUs is a compromise approach because there is no other option for a property owner to redevelop the site while maintaining the same number of housing units, consistent with the uncertified zoning code.

As proposed by the applicant and conditioned by the Commission, the project can be found to be consistent with Sections 30250, 30251, and 30253 of the Coastal Act

pertaining to concentration of new development, reducing vehicle miles traveled, and community character.

C. 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.

The proposed project is sited in a low-lying area that is inherently vulnerable to flooding. Thus, potential hazards issues that must be addressed include the potential for flooding and storm hazards. These hazards may be exacerbated by the sea level rise that is expected to occur over the coming decades.

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years. Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. On November 7, 2018, the Commission adopted a science update to its Sea level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.” The most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 3.2 ft. and 6.7 ft. by the year 2100, though there is a risk of more significant sea level rise depending on various

uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while business as usual emissions scenarios would result in the higher end of the projections. Because the world has continued along the “business as usual” scenario (and data suggests temperatures and sea level rise are tracking along the higher projections) as well as the inherent uncertainty regarding the exact rate of future sea level rise, the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well (as evidenced by the recent updates to best available science). While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear, and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore in many locations, which will result in increased flooding, erosion, and storm impacts to coastal areas. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

Although the project site is not located within the first line of development adjacent to the ocean, the site is located in the Sunset Beach community, a low-lying coastal area that is particularly vulnerable to flooding from both the ocean and the harbor. This vulnerability is further exacerbated with sea level rise and increased storm surge activity.

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 Coastal Commission, in line with statewide guidance, generally advocates for a precautionary approach to sea level rise adaptation planning, which stems from the overall importance of keeping development safe from coastal hazards and protecting coastal resources, consistent with the Coastal Act. It also derives from the fact that the costs and consequences associated with inadvertently underestimating SLR hazards could be quite high. As explained in the State of California Sea Level Rise Guidance written by the Ocean Protection Council (OPC), the “risk aversion scenario” is a principle of SLR risk analysis that is used to account for variable risk tolerance for different types of development by establishing SLR probability thresholds for varying degrees of risk aversion. For example, a critical infrastructure asset, such as a hospital, should be analyzed with high risk aversion, and would use a more precautionary range of probabilities of amounts of SLR, while a parking lot or a bike path could be analyzed with lower risk aversion. In this case, the risk aversion scenario recommended by both the Commission and OPC Guidance for residential projects is “medium-high,” as it represents a scenario that is relatively high within the range of possible future SLR scenarios and is therefore appropriately precautionary. In other words, the statewide SLR guidance recommends use of the relatively high projection of SLR associated with the medium-high risk aversion scenario, even though it has a lower probability (1-in-200 chance), because of the high consequences to precious coastal resources, valuable development, and life and safety that would occur if SLR were underestimated, and the recognition that many of these impacts cannot be undone once they have occurred.

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 armoring 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.

The best available science indicates the proposed development may be threatened by coastal hazards as a result of sea level rise before the end of its 75-year life. In this case, the applicant is proposing to incorporate adaptation measures into the project to ensure the safety of the residence, including dry flood proofing with the use of sealant systems, as well as by elevating the structures 10.05 ft. NAVD88. With the inclusion of adaptation measures, the proposed residence has been designed to minimize risks to life and property in a high flood hazard.

Adverse Coastal Impacts Due to Shoreline Protection Devices

The Coastal Act discourages shoreline protection devices, such as seawalls, riprap, and other similar structures, 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 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. Nonetheless, the Commission imposes **Special Condition 3** to require the applicant to acknowledge that the applicant has no right to a shoreline protective device for the project and no future shoreline protective device will be constructed to protect the proposed development.

Moreover, **Special Condition 3** requires the applicant to remove the development (consisting of the entire home, garage, foundation, and any future improvements) if any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the

use of bluff or shoreline protective devices. **Special Condition 3** requires that if any part of the proposed development becomes threatened by coastal hazards in the future, then the threatened development must be removed rather than protected in place. All or a portion of the development authorized by this permit shall also be removed if essential services to the site can no longer feasibly be maintained due to coastal hazards, if removal is required pursuant to LCP policies for sea level rise adaptation planning, or if the development requires new and/or augmented shoreline proactive devices that conflict with relevant LCP or Coastal Act policies. In addition, the public trust boundary may migrate landward in response to rising sea levels. If the public trust boundary does migrate landward and encompasses the development approved under CDP No. 5-23-0120, the development would need to be removed pursuant to **Special Condition 3**. This condition recognizes that predictions of the future cannot be made with certainty, thereby allowing for development that is currently safe and expected to be safe for the life of the development, but ensuring that the future risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant enjoying the benefits of new development, and not the public.

Assumption of Risk

The Commission also finds that due to the possibility of storm waves, surges, flooding, erosion and other coastal hazards, the applicant shall assume the risks of development in a hazardous area as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition 4**, will show that the applicant is aware of and understands the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the subject development, and will effectuate the necessary assumption of those risks by the applicant.

Conclusion

The proposed development, as conditioned, can be found to be consistent with Section 30253 of the Coastal Act, which requires that risks to life and property be minimized, that stability and structural integrity are assured, and that proposed development neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Approval of the project, as conditioned, also is consistent with the Commission's obligation to manage and protect public trust resources.

D. 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 is 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 14th Street. Currently, the site provides three parking spaces for the four existing units. The project proposes four parking spaces in two attached two-car garages for the proposed two condominium units and two ADUs. 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. Under the state ADU laws, parking spaces are not required for units located within one-half mile walking distance of 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 Transit Authority 1 line, which connects beach cities between Long Beach and San Clemente via Pacific Coast Highway. As such, no parking spaces are required for the proposed ADUs. No on-street parking spaces will be lost as a result of the proposed project. The proposed parking for the project is consistent with the public access policies of the Coastal Act and will increase available on-site parking, while not increasing density on the site. The proposed residences also adhere to the height, side-yard setback, and rear-yard setback set forth in the uncertified LCP and uncertified zoning code. 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.

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 Coastal Act requires 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 waters via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 5**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the permittees to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far away from a storm drain inlet and receiving waters as possible.

Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of

water quality to promote the biological productivity of coastal waters and to protect human health.

F. Deed Restriction

To ensure that any prospective future owner(s) of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 6**, which requires the applicant to record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner(s) will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. Local Coastal Program (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. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

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 (Class 3 Exemption) which applies to the construction and location of limited numbers of new, small facilities or structures. As conditioned, there are no additional feasible alternatives or additional feasible mitigation measures available which will substantially lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified possible impacts, is consistent with CEQA and the policies of the Coastal Act.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

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