

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



May 5, 2008

W 22a**ADDENDUM**

TO: Commissioners and Interested Persons

FROM: South Coast District Staff

SUBJECT: Appeal No. A-5-HNB-08-094 (Taddeo), Item No. W 22a, Scheduled for Hearing on Wednesday, May 7, 2008 in Marina del Rey, CA.

The two attached letters were received in the Commission's South Coast District office. The letter from the applicant (Robert & Mary Taddeo) was received on April 29, 2008 and outlines the history of processing the local coastal development permit for the proposed development.

The second letter, received on May 2, 2008, is from Herman H. Hakala, P.E. and objects to the staff recommendation of No Substantial Issue based on concerns regarding 1) oversaturated soils in the top 5 feet of the site's soil, 2) the soils cannot be recompacted (as recommended by the project geotechnical consultant) due to the oversaturated nature of the soil, 3) the staff report fails to state that ground water is at 5 feet and continues to the bottom of the 51.5 foot boring and questions why the ground water level is now different than the ground water level of the design of the original project, 4) the geological report should have discussed in detail the scarification requirements and how to obtain the required compaction; the soil at this site is unique compared to other sites on Trinidad Island, and, 5) the project includes a Jacuzzi that would be at least 3 ½ feet below grade.

However, the City's file for the local coastal development permit includes a site specific geotechnical report, specifically Geotechnical Investigation prepared by Coastal Geotechnical, based on work performed during September and October 2007. The City's record does not include these or any comments from Mr. Hakala. The letter does not identify any site specific investigation upon which the claims are based and does not provide a basis for the conclusions cited in the letter. The site specific geotechnical report concludes that the development approved by the City is geotechnically feasible and is not expected to adversely impact adjacent properties. The City's review did consider the issues raised by this most recent letter.

Therefore, staff continues to recommend that the appeal raises no substantial issue.

Attention: California Coastal Commissioners

Steve Blank
Sara Wan
Dr. William A. Burke
Steven Kram
Mary K. Shallenberger
Patrick Kruer, Chair
Bonnie Neely
Mike Reilly
Dave Potter
Khatchik Achadjian
Larry Clark
Ben Hueso

Planner Meg Vaughn-LB

Re: Appeal Number A-5-HNB-08-094

Applicant: Robert and Mary Taddeo

Project Location: 16251 Typhoon Lane, Huntington Beach, Orange County

Local Coastal Development Permit No. 2007-013

Included: Three page letter and six attachments

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South Coast Region

APR 29 2008

CALIFORNIA
COASTAL COMMISSION

April 25, 2008

California Coastal Commission
South Coast Area Office
200 Oceangate Suite 1000
Long Beach, California 90802-4302

Attention: Meg Vaughn

Re: Coastal Permit 07-013 Taddeo Residence
16251 Typhoon Lane, Huntington Beach, CA 92646

Dear Ms Vaughn:

This letter is in response to the appeal filed by Don Evans which is scheduled for a hearing on Wednesday, May 7.

We purchased the property located at 16251 Typhoon Lane, Huntington Beach in July of 2007. We submitted our plans to the Huntington Beach Planning Department as well as the Huntington Harbour Architectural Committee. At the Huntington Harbour hearing on October 26, Ms. Halsey objected to the building of our home alleging we would be building a wall on the side yard easement. She and the Committee were informed at this time that this was not the case. On November 15, 2007 we received a letter from the Huntington Harbour Architectural Committee approving our construction plans.

On 11/28/07 the Planning Department approved our plans as it meets all code requirements. Ms. Halsey, once again, claimed we would be building a wall on the easement and was informed for the second time that this was not the case. However, the neighbors, Don Evans and Kathy Halsey, convinced Planning Commissioner, Mr. Joe Shaw to file an appeal on their behalf (in order to circumvent payment of the filing fee). They alleged we would destroy or interfere with their easement. Our plans have not ever included any type of permanent structure on the side yard easement.

On January 8, 2008 we attended the Planning Commission Study Session and provided copies of our Grant Deed as well as the Grant Deed of the two previous owners, which do not indicate an easement on our property. We have also verified with the County Recorder's office that there is not any recorded easement on our property. We verified with the County Assessor's office that we have been paying taxes on the full lot which measures 60' x 108'.

We met with Planning Commissioners Mr. Shaw, Mr. Scandura and Ms. Sheir-Burnett at the Typhoon property to view the house and discuss our concerns. Their observations and decisions are reflected in the Planning Commission's vote on 1/23/08 to not grant an appeal and to unanimously approve our permit to build a new home.

On 1/26/08 Ms. Halsey's attorney provided our attorney with a copy of a Grant Deed issued in 1978 indicating their may have been an intent for an easement at that time. The Evans/Halsey's have a Grant Deed that indicates they have a five-foot easement. The Grant Deed states: "Each such easement shall be accurately described in the deed of the dominant and benefited lot and such easement shall also be referenced in the deed of the lot subject to said easement". However, this easement is subject to Paragraph 5 which states: "The adjoining lot owners shall determine by mutual agreement between themselves, taking into account the relative square footage of such area, any improvements which have been installed thereon and any tax bills rendered upon valuation based upon assessing such property and the owner having such beneficial use shall reimburse the owner subject to such assessment for the portion of such assessment attributable to the portion of this lot beneficially used by the reimbursing party". The Halsey/Evans have never made any property tax payments to us nor have they offered to do so.

The Grant Deed also stipulates: "No swimming pool, Jacuzzi hot tub, room addition, shed, planter box or any other similar or substantial improvement shall be constructed in said easement area without said improvement first being approved by the City of Huntington Beach and the Architectural committee...and no such improvement shall be approved by said architectural committee which would unreasonably interfere with the right of entry to the easement area described in subparagraph...or in normal use, be likely to cause damage to the house located on the lot subject to said easement."

The Halsey/Evans have four permanent structures on the easement for which they do not have permits: a planter box, an air conditioning unit and a built in barbeque that is inches from the wall of our home, which constitutes an extremely serious fire hazard. They also have a wall that is attached to our house. All of these structures interfere with our ability to maintain our home and will also interfere with any construction. Mr. Richard Massey a Huntington Beach Code Enforcement Officer, has been to the Halsey/Evans home multiple times but they have thus far refused to grant entry or return his phone calls. They have locked the gate to the side yard easement restricting our ability to maintain our home. This has also caused the Southern California Gas Company to issue an "estimated" bill for the last several months that is far higher than an accurate reading for a vacant home due to their inability to read the meter. The circuit breakers for the home are also located on the easement side and out of reach. During the open and recorded Planning Commission meeting on 1/23/08, Ms. Halsey's attorney admitted that there were unpermitted structures on the easement.

We have sent multiple letters to Mr. Evans and Ms. Halsey (please refer to copies attached) offering to replace and restore the easement area after construction is completed as permitted by the City of Huntington Beach and Huntington Harbour Architectural Committee. The Halsey/Evans attorney requested we not commence building for thirty days after the Planning Commission approval in order to meet with a mediator. We agreed to this and stated we were more than willing to mediate an acceptable agreement. However, the Halsey/Evans have thus far refused to respond to our request and instead convinced a Council Member to file yet another appeal citing essentially the same reasons that were not upheld by the Planning Commission and once again circumventing payment of the filing fee.

The City Attorney stated at both the study session as well as at the Planning Commission meeting that the City should not involve itself regarding easement issues between two private homeowners.

On March 3, the City Council of Huntington Beach unanimously denied the appeal filed by Mr. Bohr on behalf of Evans/Halsey and upheld the Coastal permit to construct our new home. At the hearing Ms. Halsey's attorney submitted a letter claiming again that we were building a wall on the easement, a falsehood clearly addressed in the three prior hearings. Ms. Halsey and Mr. Evans stated in the open and recorded Council hearing that they did not object to the building of our home but wanted a "plan".

In the spirit of presenting this plan, and with the hope to avoid any more appeals we sent yet another letter to Evans/Halsey requesting a meeting to mediate their concerns. Instead, they filed this baseless appeal. The City of Huntington Beach, and in turn the taxpayers, have spent thousands of dollars, as well as untold wasted man hours preparing multiple staff reports in response to the three appeals filed by Evans/Halsey. Their latest appeal is a litany of falsehoods and incongruous allegations. We at no time ever indicated we would be excavating beyond the property line in either direction. The proposed home will occupy the same essential footprint as the existing home. We will not affect the public walkway to the north of the property in any manner. We are also not excavating down six feet as alleged. The City of Huntington Beach staff report clearly rebuts all of the allegations, and the Geotechnical Report is included as evidence. As far as the first floor windows are concerned, they will be frosted high level windows for ventilation and in no way affect public access.

We are extremely frustrated at the continuous unwarranted delays perpetrated by the Halsey/Evans which have cost us over \$100,000 in cost delays. We believe strongly the Halsey/Evans' are misusing the appeal process and valuable time of the City of Huntington Beach and now the Coastal Commission in order to maintain their non-permitted structures and in turn, prevent the construction of our new home. Although any construction can be inconvenient as well as noisy, construction of our home would require very temporary use of the neighbor's side-yard easement and street access but will not impede public access to the walkways. In turn it will result in a vast improvement to the neighboring property values.

We respectfully request that you find that there is no substantial reason for their appeal, and terminate these endless rounds of appeals once and for all.

Sincerely,



Robert and Mary Taddeo
18204 Third Street
Fountain Valley, CA 92708
Home: 963-2077 Work: 848-9091 Cell: 345-0679

CC: Commissioners: Blank, Wan, Burke, Kram, Shallenberger, Kruer, Neely, Reilly, Potter, Achadjian, Clark and Hueso

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February 4, 2008

Via Fax - 949-752-2141

Law Offices of Daniel C. Carlton
Daniel C. Carlton, Esq.
2600 Michelson Drive, Suite 1120
Irvine, CA 92612

Re: *Side Yard Encroachments -16251 Typhoon Lane, IIB*
Our Client: Taddeo

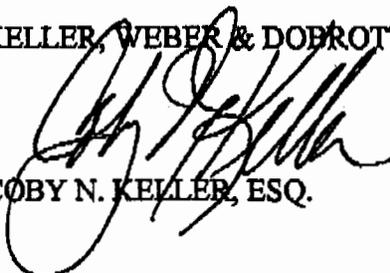
Dear Mr. Carlton:

The Gas Company has contacted Mr. Taddeo and requested access to the side yard which is currently padlocked. The Taddeo gas meter is located on the side yard of their house adjacent to your clients. The gas company cannot provide the Taddeos with an accurate gas bill unless they have access to the side yard and the ability to read the meter.

I would appreciate your discussing this with your clients so that we can arrange access for the gas company.

Sincerely,

KELLER, WEBER & DOBROTT


COBY N. KELLER, ESQ.

CNK:nb

cc: Mr. & Mrs. Robert Taddeo

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March 28, 2008

CONFIDENTIAL SETTLEMENT COMMUNICATIONS
SUBJECT TO EVIDENCE CODE SECTION 1542

Via Facsimile 949-752-2141 and US Mail

Daniel C. Carlton, Esq.
Law Offices of Daniel C. Carlton
19700 Fairchild, Suite 280
Irvine, CA 92612-2445

Via Facsimile 949-833-7878 and US Mail

John P. Erskine, Esq.
Nossman, Gunther, Knox, Elliott, LLP
18101 Von Karman Ave., Suite 1800
Irvine, CA 92715-1007

Re: *Property location: 16251 Typhoon Lane, HB*
Our Client: Robert and Mary Taddeo

Dear Counsel:

After some deliberation and Mr. Evan's recent statement made at the city council hearing that he is "waiting for a plan", our clients, Mr. and Mrs. Robert Taddeo ("Taddeos") propose the following in an effort to resolve the current dispute with Ms. Halsey and Mr. Evans:

1. The Taddeos will acknowledge the intent of the developer of the sub-division to place a side yard recreational easement on their property consistent with the intended language of the easement as reflected in the prior deeds to the previous transferees of the property as well as the restrictions set forth in the Declaration of Annexation, the Covenants, Conditions and Restrictions ("CC&Rs") of record and the Architectural Guidelines of the Trinidad Island Homeowners Association and will execute appropriate documentation to record the easement language against the property;
2. The Taddeos will pay your clients the reasonable rental value of the easement area for that period of time that their construction encroaches upon the easement and interferes with your clients' use based on the square footage percentage of the value of the rental income of the home;
3. The Taddeos will take steps to insure that the sideyard wheelchair access for Ms. Halsey is not blocked at any time during the course of construction and that their contractors will not enter upon your clients' property during the course of construction. A privacy fence will be placed on the property line to minimize dust and debris;
4. Prior to or upon completion of construction, or as soon as practicable after the use, by the Taddeos, of the easement area, has terminated, the Taddeos, will, at their sole cost and expense, either store or move the existing planter, barbeque and air conditioning unit so long as the repositioning of these items is in accordance with all Building Code requirements, city ordinances, CC&Rs, Architectural Committee

LAW OFFICES
KELLER, WEBER & DOBROTT

Daniel C. Carlton, Esq.
John P. Erskine, Esq.
March 28, 2008
Page 2

Guidelines of the Trinidad Homeowners Association and in compliance with all City, County, State and Homeowner Association approvals. and based upon costs provided by the Taddeos' consultants and contractors;

5. Mr. Evans and Ms. Halsey will agree to withdraw any coastal appeal which they may have filed and will agree that they will not further interfere with the Taddeos' project so long as the Taddeos proceed in accordance with the terms outlined herein; including the installation of opaque, high set windows on the first floor;
6. The Evans/Halseys and the Taddeos will negotiate a tax assessment sum for the continued use of the easement by Evans/Halsey once construction is completed in accordance with the CC&Rs;
7. The parties will enter into a written settlement agreement and mutual release setting forth the above together with a mutual release of any and all claims which either side may have as against the other as of the date of the agreement together with a *Code of Civil Procedure Section 1542* waiver; and,
8. Your clients will immediately cause the gate to the side yard to be unlocked so that the Taddeos may have unimpeded access to the gas meter and circuit breakers. Once construction is completed the Taddeos will notify the Evans/Halseys of the need to access the sideyard for maintenance in accordance with the CC&Rs

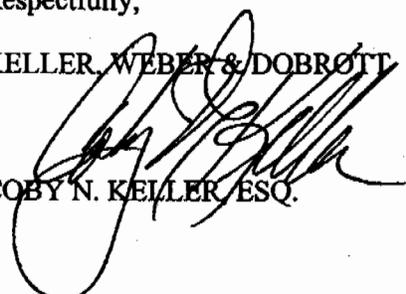
This offer shall remain open until 5:00 p.m. April 8, 2008.

Should you wish to discuss this matter, please do not hesitate to contact me. In addition, if you feel that a meeting of the parties may facilitate a resolution, please be advised that the Taddeos invite such a meeting among parties and counsel and with or without the assistance of a mediator.

Nothing set forth herein is intended to be and should not be construed as an admission against the Taddeos interests with regard to the alleged easement or otherwise.

Respectfully,

KELLER, WEBER & DOBROTT



COBYN N. KELLER, ESQ.

CNK:sl
cc: Mr. and Mrs. Taddeo

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January 23, 2008

VIA FAX & MAIL
949-752-2141

Daniel C. Carlton, Esq.
2600 Michelson Drive, Suite 1120
Irvine, CA 92612

Re: *Side Yard Encroachments -16251 Typhoon Lane, HB*
Our Client: Taddeo

Dear Mr. Carlton:

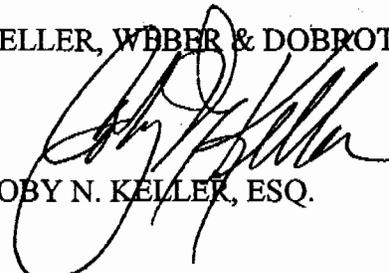
In follow up to our telephone conversation of this date, this will confirm that the Taddeos do not intend to start construction for a period of 30 days. As we discussed, my clients are agreeable to scheduling a mediation to resolve this matter.

We discussed the use of a neutral at Judicate West to act as mediator, and it is my understanding you will contact Judicate West and provide me with a list of panel members for review and consideration.

Naturally, my clients would like to schedule this mediation within the next 30 days.

Sincerely,

KELLER, WEBER & DOBROTT


COBY N. KELLER, ESQ.

CNK:nb

cc: Mr. Robert Taddeo ✓

December 18, 2007

VIA FAX & MAIL 949-752-2141

Daniel C. Carlton, Esq.
2600 Michelson Drive, Suite 1120
Irvine, CA 92612

Re: *Side Yard Encroachments -16251 Typhoon Lane, HB*
Our Client: Taddeo

Dear Mr. Carlton:

I have forwarded your December 13, 2007 correspondence to Mr. and Mrs. Taddeo and they have authorized the following response.

First of all, as I have previously indicated, the Taddeos have always been willing to meet with your clients and reach a resolution and their stance has not changed. As such, I am providing you with the following information that you requested in your correspondence and wish to affirm my clients' desire to resolve this matter amicably.

Before addressing the specific requests set forth in your correspondence, you should be aware that at the time the developer of the property conveyed to Mr. Taddeo's parents, the property was not burdened with the alleged easement. I enclose herewith for your review a copy of the original grant deed from the developer to Mr. Taddeo's parents, as well as the original deed of trust, neither of which reference the alleged easement. As I am sure you are aware, if the property to which the easement pertains was not transferred subject to the easement, there is no express easement.

This may be an issue your clients may wish to take up with their seller and/or their own title insurance company.

With the foregoing in mind, the Taddeos respond and have the following proposal:

1. After discussions with the contractor and the architect, a reasonable time frame for construction is 12 months from the demolition of the existing residence;
2. Upon the completion of the home the Taddeos will grant a revocable license to your clients to use the five-foot easement for their recreational use so long as they do not construct any permanent fixtures on the Taddeo property;

Daniel C. Carlton, Esq.
December 18, 2007
Page 2

3. The current structures located on the property, the planter box, barbeque and HVAC condenser, will have to be moved;

4. During the course of construction, the fences connecting the two homes must be removed to allow access during construction and the Taddeos will install temporary fencing to ensure privacy. Upon completion of the construction, the Taddeos will consult with your clients as to the style and the location of the permanent fences; and

5. We will work with your clients to landscape the property at our expense.

Once you have had an opportunity to discuss the above with your clients, I look forward to your response.

Sincerely,

KELLER, WEBER & DOBROTT

COBY N. KELLER, ESQ.

CNK:nb

cc: Mr. & Mrs. Taddeo

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November 8, 2007

*Via Facsimile 949-752-2141
and US Mail*

Daniel C. Carlton, Esq.
Law Offices of Daniel C. Carlton
2600 Michelson Drive, Suite 1120
Irvine, CA 92612

Re: *Side Yard Encroachments -16251 Typhoon Lane, HB
Our Client: Robert and Mary Taddeo*

Dear Mr. Carlton:

In follow up to our recent telephone conversation, I have had further discussions with the architect and my clients dealing with your clients' concerns about a zero lot line affecting the ability to construct a two-story home, the window issues, the spray paint in the easement and remarks made to Mrs. Halsey by some individual.

With regard to the zero lot line issue, the architect has informed me that the current residence is not a zero lot line, nor will the new residence be a zero lot line. Therefore, there are no restrictions with regard to the construction of a two-story home. In fact, the Taddeo residence is one of the only single story homes in the development.

With regard to the window issue, the windows can be either removed or opaque glass can be used so that there is no interference with your clients' privacy.

The orange spray paint was placed by the surveyor on the surveyor's mark at the time that the survey was done to identify the property line.

As I indicated, Mr. Taddeo has not had any discussions with your client and can only surmise that it may be the surveyor who made remarks to your client, in which case Mr. Taddeo apologizes for the conduct of his subcontractor.

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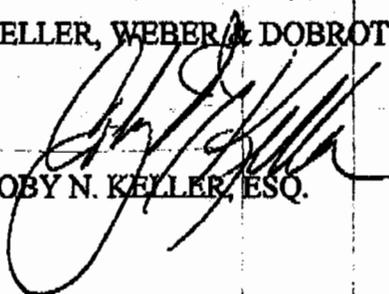
Daniel C. Carlton, Esq.
November 8, 2007
Page 2

As I indicated, the Taddeos would like to arrange a meeting with your clients to see if this matter can be resolved amicably and to all parties' satisfaction.

Once you have had an opportunity to discuss this request with your client, please let me know.

Sincerely,

KELLER, WEBER & DOBROTT



COBY N. KELLER, ESQ.

CNK.nb

cc: Mr. and Mrs. Taddeo (v/fax)

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October 2, 2007

Mr. Donald S. Evans
Ms. Kathleen Anne Halsey
16261 Typhoon Lane
Huntington Beach, CA 92649

Re: *Side Yard Encroachments to 16251 Typhoon Lane, Huntington Beach*
Our Client: Robert and Mary Taddeo, individually and as trustees of the Robert
& Mary Taddeo Revocable Living Trust dated December 17, 2000

Dear Mr. Evans and Ms. Halsey:

This firm represents the Taddeos who recently purchased the real property located at 16251 Typhoon Lane, Huntington Beach, California.

As you may or may not be aware, the Taddeos are in the process of constructing a new residence on their property. Demolition is set to take place in or about January 2008. Currently, there exists two permanent planters, a built-in barbeque and an air conditioning condenser on the Taddeo property subject to your side yard easement. A review of the records of the city of Huntington Beach, Building and Planning Department reveals that none of the permanent structures have been permitted by the city, nor does there appear to be any approvals by the homeowners association nor its architectural committee as required by the Covenants, Conditions & Restrictions (CC&Rs) which affect the property.

Section 5(d) of the Declaration of Annexation, Tract 8636, Orange County, California, prohibits the construction of "planter box, or any other similar or substantial improvement" in the easement area without the improvement first being approved by the city of Huntington Beach and architectural committee. In addition, the section provides that any structure erected on the easement shall not unreasonably interfere with the right of entry to the easement area, nor be likely to cause damage to the house located on the lot subject to the easement.

The easement expressly provides that it is subject to the conditions and restrictions contained in paragraph 5 of the Declaration of Annexation as set forth herein. Further, the CC&Rs require that any permanent barbeque be located in rear yards and not side yards.

KELLER, WEBER & DOBROTT

Mr. Donald S. Evans
Ms. Kathleen Anne Halsey
October 2, 2007
Page 2

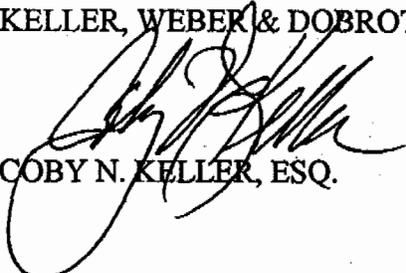
Rest assured that the Taddeos wish to cooperate with you throughout the construction process and will take all appropriate measures to maintain your side yard easement within the parameters of the CC&Rs; however, it will be necessary to remove the planters, the barbeque and to reposition the air conditioning condenser on your property.

Lastly, the gate access through the side yard areas has been locked, thus denying the Taddeos access to the side yard which, likewise, is a violation of the CC&Rs. You are requested to immediately remove the lock and allow the Taddeos and their representatives access to the area.

Please either contact the undersigned directly, or have your representative contact me so that an understanding can be reached with regard to the issues raised herein.

Sincerely,

KELLER, WEBER & DOBROTT



COBY N. KELLER, ESQ.

CNK:nb

cc: Mr. Robert Taddeo ✓

Herman H. Hakala, P.E.

4340 Hazelnut Avenue, Seal Beach, CA. 90740
Cell (949) 422-0275

RECEIVED

South Coast Region

MAY - 2 2008

May 1, 2008

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
South Coast District
P.O. Box 1450
200 Oceangate, 10th Floor
Long Beach, California 90802-4416

W 22 a
Herman Hakala
Opposition to Project

Attention: Ms. Meg Vaughn - LB

The purpose of this letter is to provide additional information regarding Appeal Number A-5-HNB-08-094, Local coastal development Permit Number 2007-013 and the City of Huntington Beach Certified Local Coastal Program (LCP).

The following are only five (5) of the numerous issues which are in the Staff Report, Appeal Substantial issue:

- (1) The report fails to state that from the ground surface to 5 feet the existing soils are oversaturated (Soils Report Boring No. B-1 states very moist), therefore, the contractor will be unable to compact soil to 90%, since the soil is above optimum moisture.
- (2) The report states to remove and to recompact new material for three feet and also states that below three feet to scarify and recompact 6 to 8 inches of existing soil to 90%. This is impossible, since the moisture is above the optimum.
- (3) The report fails to state that the ground water level is at five feet and goes to the bottom of boring by Coastal Geotechnical, which is 51.5 feet.
Question: Why is ground water 5 feet below ground surface, when design of original project had ground surface 10 feet higher than water on other side of head wall?
This should have been investigated by the City Staff prior to issuance of LCP.

- (4) The City states that the existing situation of the soil is typical of fill lots on the Island. The geological report should therefore have discussed in detail the scarification requirements and how to obtain required compaction. After reviewing other construction projects on Trinidad Island, the various contractors I have met with discussed that the soil situation that they dealt with was native soil, not dredged fill with organic matter in it, as it is on the project we are discussing.
- (5) The report fails to discuss, prior to the approval of the LCP, that the building included a Jacuzzi on the south-West corner of the new house. The Jacuzzi is to be below the house floor elevation. The depth of the excavation hole for the Jacuzzi is greater than 3 feet, since a Jacuzzi is usually 3 ½ feet plus; therefore, the Jacuzzi will probably bring the excavation near the ground water elevation. This situation should have been reviewed by the City of Huntington Beach Staff in detail, prior to the issuance of the LCP.

In reviewing the Coastal Commission Staff Report Appeal Substantial Issue, I have determined that the staff report is deficient in certain areas. The report is not consistent, in that it fails to analyze the entire main items of the project; therefore, the Coastal Commission should require that the City of Huntington Beach redo the LCP prior to issuance of the California Coastal Commission approval with conditions.

I am a Registered Civil Engineer in California with a Bachelors and a Masters Degree of Science in Civil Engineering and I have worked in the Civil Engineering profession for over 40 years.

Respectfully,


Herman H. Hakala, P.E.

Important Public Hearing Notice - New Appeal

Permit Number: A-5-HNB-08-094

Applicant(s): Robert and Mary Taddeo

Appellant(s): Don Evans

Decision Being Appealed:

Appeal of City of Huntington Beach Approval with conditions of Local Coastal Development Permit, Number 2007-013, for demolition of an existing single family residence and construction of a new 4,194 square foot, two-story, single family residence.

Project Location:

16251 Typhoon Lane, Huntington Beach
(Orange County)

Enclosed are written materials regarding the above subject permit, as required in California Coast Commission letter, dated April 21, 2008, Submission of Written Materials.

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Filed: 4/1/08
49th Day: 5/20/08
Staff: Meg Vaughn-LB
Staff Report: 4/17/08
Hearing Date: 5/7-9/08
Commission Action:



W 22a

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Huntington Beach
LOCAL DECISION: Approval with Conditions
APPEAL NUMBER: A-5-HNB-08-094
APPLICANT: Mary & Robert Taddeo
PROJECT LOCATION: 16251 Typhoon Lane, Huntington Beach, Orange County

PROJECT DESCRIPTION: Appeal of City of Huntington Beach approval with conditions of local coastal development permit No. 2007-013 for demolition of an existing single family residence and construction of a new 4,194 square foot, two story, single family residence.

APPELLANT: Don Evans

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **NO SUBSTANTIAL ISSUE** exists with respect to the grounds on which the appeal has been filed. The appellant contends that the project approved by the City is inconsistent with the LCP requirements regarding geologic stability and public access and with the public access policies of the Coastal Act. As described in the findings of the report, the project approved by the City is consistent with those provisions of the City's certified LCP and Coastal Act. Therefore, staff is recommending that no substantial issue exists with respect to the grounds upon which the appeal was filed.

The **motion** to carry out the staff recommendation is on **page 5**.

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. 2007-013
2. City of Huntington Beach Certified Local Coastal Program.

I. APPELLANTS' CONTENTIONS

Local Coastal Development Permit No. 2007-013, approved by the Huntington Beach City Council on March 3, 2008, has been appealed by Don Evans (see exhibit C). The appellant contends that the local coastal development permit is inconsistent with the certified Huntington Beach Local Coastal Program (LCP) hazard and public access policies and with the public access policies of the Coastal Act. The appellant's contentions are summarized below.

1. Geologic Stability

The proposed development will require overexcavation and recompaction of the soils on the subject lot. This will create the following adverse impacts: 1) the necessary excavation and the associated temporary slope will encroach into a private easement and five feet into the adjacent property which would likely undermine the foundation of the adjacent house; and, 2) the excavation will also undermine the structural integrity of the marina headwall and negatively impact water quality.

2. Public Access

The necessary excavation would also undermine the adjacent public access walkway. The removal of 250 cubic yards of cut material and placement of 250 additional cubic yards of fill material will create adverse traffic impacts in the neighborhood.

3. Other Contentions

The project is inconsistent with the Commission's original approval of the subdivision (Tract 8636). The original project included an easement to the property owner adjacent to the subject site. The proposed project would eliminate the exclusive private easement. The original approval of the subdivision did not allow windows facing the private easement. The project will have windows facing the private easement.

II. LOCAL GOVERNMENT ACTION

The Zoning Administrator approved with conditions local coastal development permit 2007-013, after taking public comment and written comments, on November 28, 2007. At a public hearing the Planning Commission upheld the Zoning Administrator's approval with conditions of local coastal development permit 2007-013 on January 23, 2008. Also at a public hearing, the City Council upheld the Planning Commission's approval with conditions of the local coastal development permit on March 3, 2008. Legal public notice was published in the Huntington Beach/Fountain Valley Independent newspaper on January 10, 2008, and notices were sent to property owners of record and tenants within a 100 foot radius of the subject property, individuals/organizations requesting notification, the applicant and interested parties.

The final notice of action from the City was received in the South Coast District office on March 28, 2008 and the appeal period began on April 1, 2008. The subject appeal was filed on April 1, 2008. A notice of action was received from the City in the South Coast

District office on March 7, 2008. However, because that notice did not indicate that it was the final notice, a notice of deficient notice was sent. When the complete Notice of Final Action was received in the South Coast District office, the appeal period was established.

Based on City staff reports and meeting minutes, issues raised at the local government hearings focused almost entirely on whether the proposed development would infringe on an exclusive private easement within the side yard of the subject site held by the adjacent neighbor.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance. Furthermore, developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

Section 30603(a)(2) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road and within 300 feet of the mean high tide line.

Section 30603 of the Coastal Act states, in part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of a local government action approving a Coastal Development Permit for development in the appealable area are stated in Section 30603(b)(1), which states:

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires the Commission to hold a de novo hearing on the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing may be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The Chair will set the time limit for public testimony at the time of the hearing. As noted in Section 13117 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

If the appeal is found to raise a substantial issue, at the de novo hearing, the Commission will hear the proposed project de novo and all interested persons may speak. The de novo hearing, if required, will occur at a subsequent meeting date. All that is before the Commission at this time is the question of substantial issue.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission make the following motion and adopt the following resolution:

Motion: *I move that the Commission determine that Appeal No. **A-5-HNB-08-094** raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff Recommendation:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. Failure of this motion will result in a de novo hearing on the application. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution to Find No Substantial Issue:

The Commission hereby finds that Appeal No. **A-5-HNB-08-094** raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The project approved by the City allows demolition of the existing single family residence and construction of a new 4,194 square foot, two story, 27 foot high single family residence with an attached 593 square foot, three car garage.

The subject site is a waterfront lot located within the established neighborhood on Trinidad Island within Huntington Harbour. The certified Land use Plan designates the subject site Residential Low Density (RL-7 [maximum density of 7 dwelling units per acre]). The certified Implementation Plan zoning at the subject site is Residential Low Density – Coastal Zone Overlay (RL-CZ).

A public access walkway is immediately adjacent to the subject site along the island's bulkhead. Vertical public access from Typhoon Lane to the public walkway along the bulkhead exists along the subject site's northern property line.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(2) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified Local Coastal Program or the public access policies of the Coastal Act. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appellant raises no significant questions". In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Local Coastal Program;
2. The extent and scope of the development as approved by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified Local Coastal Program or with the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists with respect to the grounds on which an appeal has been filed in order to decide whether to hear the appeal de novo.

In making the substantial issue assessment, the Commission typically considers whether the appellants' contentions regarding the inconsistency of the local government action with the certified LCP raise significant issues in terms of the extent and scope of the approved development, the support for the local action, the precedential nature of the project, whether a significant coastal resource would be affected, and whether the appeal has regional or statewide significance.

In this case, the appellant contends that the City's approval of the proposed project does not conform to the requirements of the certified LCP (see Section I and exhibit C) regarding hazards and public access. In addition, the appellant contends that the City's approval of the proposed project is inconsistent with the public access policies of the Coastal Act.

With regard to the degree of factual and legal support for the local government's decision – the matter has been heard at three public hearings (Zoning Administrator, Planning Commission, and City Council), the file contains the relevant documents upon which the decision was based, including a geotechnical investigation, and was appropriately noticed. The opposition raised at the local government hearings, based on review of the staff reports and minutes, did not raise the issues of structural integrity or of public access, but rather focused on questions regarding an exclusive, private easement in the side yard of the subject site. The City's review considered consistency of the proposed project with the certified Local Coastal Program and made specific findings that the development was consistent with the LCP and with the public access and recreation policies of the Coastal Act. Thus, adequacy of the factual and legal support for the local government's decision does not present an issue.

The extent and scope of the proposed development consists of replacement of an existing single family residence with a new single family residence in an area developed and zoned for such use. The single family residence approved by the City complies with the zoning standards for the subject site and did not require any variances or deviations for height and complies with all of the standard setbacks. Thus, the extent and scope of the proposed development raises no issue.

No coastal resources are expected to be affected by the proposed development. The existing public accessways along the western (lateral accessway) and northern (vertical accessway) subject site property lines are not expected to be affected by the proposed development. All development included in the City's approval is within the boundary of the subject site. In addition, no public views would be impacted as none currently exist at the subject site. The public views to the harbour are from the public walkway immediately adjacent and to the west of the site. The development will not affect those existing public views.

The City's approval of the proposed development does not set any new precedents with regard to future interpretations of the LCP. Replacement of an existing single family residence with a new single family residence in the subject area is routine. No special variances or other non-routine steps were necessary to find the proposed development consistent with the certified LCP.

The appeal does not raise any issues of regional or statewide significance. The development approved by the City is the routine replacement of an existing single family residence with another single family residence. No extraordinary measures are required to accomplish the proposed development.

It should be noted that the appeals filed at the local government level were based on use of an exclusive private easement that apparently exists on the subject site in favor of the immediate neighbor who is the appellant. In the City Council's approval of the project it states:

“The issue of access rights to the 5 ft. wide and 50 ft. long exclusive private easement, which was established along the south property line for the purposes of maintenance of 16261 Typhoon Lane, is not negated by the approval of this

development because no building encroachment into the easement will occur. See inserted exhibit and Attachment No. 3. [exhibit E to the Commission staff report]

The building configuration is similarly designed as to other properties in the surrounding neighborhood, and will be placed in the identical location as the previous residence. The contention between property owners over the exclusive easement for maintenance purposes or construction activity is a private civil matter between property owners separate from the CDP.

As noted the appeal is based on the prolonged use of a recorded private easement exclusive to the adjoining property during the construction of the new single-family residence at 16251 Typhoon Lane. According to the property owners, the estimated timeframe to access said easement could take upward to a year in which case they have expressed their willingness to work with the opposing property owners to avoid any unnecessary disruption within the easement area. Since the easement is a private agreement between two property owners and the fact that the proposed residence conforms to the City's zoning requirements and the findings for the CDP can be met, Staff is recommending approval of the request."

The issue of use of the exclusive private easement is, as stated in the City's findings, a private matter between the two property owners. No issue of regional or statewide significance is raised. More significantly, no issue of conformity with the certified LCP or with the public access policies of the Coastal Act is raised.

Staff is recommending that the Commission find that **no substantial issue** exists with respect to whether the approval of the project is consistent with the provisions of the certified Local Coastal Program or with the public access policies of the Coastal Act for the reasons set forth below.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified Local Coastal Program or with the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists with respect to the grounds on which an appeal has been filed in order to decide whether to hear the appeal de novo.

In making the substantial issue assessment, the Commission typically considers whether the appellants' contentions regarding the inconsistency of the local government action with the certified LCP or the Coastal Act raise significant issues in terms of the extent and scope of the approved development, the support for the local action, the precedential nature of the project, whether a significant coastal resource would be affected, and whether the appeal has statewide significance.

In this case, the appellants contend that the City's approval of the proposed project does not conform to the requirements of the certified LCP or with the public access policies of the Coastal Act (See Section I and exhibit C).

1. Geologic Stability

The City's certified LCP Land Use Plan contains the following policies regarding hazards including geologic stability:

C 1.1.9 *Minimize risks to life and property in areas of high geologic, flood and fire hazard through siting and design to avoid hazard.*

New development shall be designed to 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 a protective.

C 10.1.4 *Require appropriate engineering and building practices for all new structures to withstand ground shaking and liquefaction such as those states in the Uniform Building Code.*

The appellant contends that the proposed development will require overexcavation and recompaction of the soils on the subject lot. The appellant contends that this will create the following adverse impacts: 1) the necessary excavation and the associated temporary slope will encroach into a private easement and five feet into the adjacent property which would likely undermine the foundation of the adjacent house; and 2) the excavation will also undermine the structural integrity of the marina headwall and negatively impact water quality.

However, the appellant has not submitted any supporting documentation that the excavation must extend beyond the subject site property lines nor that any site grading would create structural instability either at the subject site or surrounding areas.

The City's project approval does not authorize any development beyond the property line. The project does not include any subterranean levels or extraordinary features that set it apart from typical developments routinely constructed in the vicinity. The City record for the project includes a Geotechnical Investigation prepared by Coastal Geotechnical, based on work performed during September and October 2007. Regarding site grading the Geotechnical Investigation states: "Removal of Unsuitable Soils – To reduce the potential for sand boils and ground cracks in the event liquefaction occurs and to densify soils disturbed by demolition of the existing structure and improvements, the upper approximate 3 feet of existing fill should be removed and replaced as properly compacted fill in all areas intended to support the structure or hardscape improvements or as close as safely possible to property boundaries." This language implies that excavation that is limited to within the property lines has been recognized in the geotechnical review. The Geotechnical Investigation recommends a two-way beam and slab mat foundation system, which is not an extraordinary means of support. Most importantly, the Geotechnical Investigation concludes:

“The proposed construction is feasible from a geotechnical standpoint. Grading and foundation plans should consider appropriate geotechnical features of the site. The proposed development is not anticipated to adversely impact the adjacent properties from a geotechnical standpoint provided the recommendations provided in this report and good construction practices are followed.”

The Geotechnical Investigation identifies a high potential for liquefaction at the site. It should be noted, however, that this is commonly true of artificially created, urbanized islands. The subject site is not identified by the geotechnical consultant to be at greater risk than its neighbors in this regard. The higher risk is minimized through application of engineering and design standards.

Consideration and minimization of risk is required by the LUP policy cited above. The fact that the above referenced Geotechnical Investigation is a part of the City’s record for the proposed development indicates that the City’s approval included evaluation of risks to life and property due to geologic hazard when reviewing the proposed development. Development such as that approved by the City is routinely accomplished within the subject vicinity. Although certain measures may need to be incorporated into the construction methods, such steps would not be unusual in the general vicinity and can be accomplished without creating instability. The geotechnical consultant determined that the proposed development at the subject site is feasible. Thus, the development approved by the City is consistent with the hazard policies of the City’s certified LCP. Therefore, the appellant’s contentions do not raise a substantial issue with regard to stability and structural integrity.

2. Public Access

The Coastal Act requires that public access to the sea be maximized. Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provide 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.

In addition, the City’s certified LUP includes public access policies including the following:

C 1.1.5 *(in pertinent part) New residential development should be sited and designed in such a manner that it maintains and enhances public access to the coast.*

C 2.2.2 *(in pertinent part) Maintain existing pedestrian facilities*

C 2.5 *Maintain and enhance, where feasible, existing shoreline and coastal resource access sites.*

C 2.5.1 *Require that existing public access to the shoreline and Huntington Harbour waterways be maintained and enhanced, where necessary and feasible, notwithstanding overriding safety, environmental or privacy issues.*

The appellant contends that necessary excavation would also undermine the adjacent public access walkway and that when that occurs public access to the marina and walkway will be negatively impacted. The appellant also contends that if the public walkway is undermined, the structural integrity of the marina headwall (the bulkhead that surrounds Trinidad Island) will also be impacted and that will cause negative water quality impacts. In addition, the appellant contends that the removal of 250 cubic yards of cut material and placement of 250 additional cubic yards of fill material will create adverse traffic impacts in the neighborhood.

As described in the section above regarding hazards, the appellant has not submitted any supporting documentation that the excavation must extend beyond the subject site property lines nor that any site grading would create structural instability either at the subject site or surrounding areas. Furthermore, the Geotechnical Investigation prepared for the proposed development of the subject site indicates the proposed development is feasible from a geotechnical standpoint. The Coastal Act and certified LCP polices require that public access be maximized and that development not interfere with public access. The subject site is bordered on two sides by public access walkways. However, no information has been submitted and nothing in the City's project record indicates that the City's approval of the proposed project will have any adverse affect on the adjacent public walkways. The City's action approves only replacement of an existing single family residence with another single family residence. Homes that front on Huntington Harbour are routinely replaced. There is nothing in the Geotechnical Investigation to suggest that the geology at the subject site presents a unique hazard. In the absence of specific information to the contrary there is no reason to expect that adverse impacts to the adjacent public accessways will result from the project as approved by the City.

With regard to the truck trips required to export any excess cut material and import any necessary fill material, again the project is relatively routine. Construction impacts naturally occur when construction is undertaken. However, impacts due to construction of the proposed residence, including any required truck trips, are not expected to be more than ordinarily necessary for relatively routine development. Furthermore, the disruption would be temporary and would not cause any permanent adverse impacts to public access. No major coastal access roads would be impacted. Potential impacts to neighborhood traffic would not rise to the level of regional or statewide concern.

Thus, the development approved by the City is consistent with the public access policies of the Coastal Act and of the City's certified LCP. Therefore, the appellant's contentions do not raise a substantial issue with regard to consistency with public access.

3. Other Contentions

The appellant contends that the project is inconsistent with the Commission's original approval of the subdivision (Tract 8636). The appellant further contends that the original project included an easement to the property owner adjacent to the subject site and that the proposed project would eliminate the exclusive private easement. Finally, the appellant contends that the original approval of the subdivision did not allow windows facing the private easement and that the project will have windows facing the private easement.

The appellant does not cite any specific Coastal Commission approved coastal development permit. Staff, in the time available under the timing requirements for appeals,

has reviewed Commission records to ascertain whether any underlying Commission approval of the subdivision exists. A coastal development permit was approved in 1975 (coastal development permit No. A-6520) to allow relocation of a temporary sales office for the subject site's tract (Tract No. 8636). It is possible that an earlier coastal development permit exists. But it is also possible that the tract pre-dates Coastal Commission jurisdiction. Regardless, the grounds for appeal are limited to the question of consistency with the City's certified LCP and with the public access policies of the Coastal Act. However, if the private easement was part of a coastal development permit approval, it is unlikely that a requirement for an exclusive private easement favoring a single property owner would have been a requirement imposed by the Coastal Commission. It is difficult to imagine a Coastal Act or Proposition 20 basis for such a requirement. In any event, the City considered impacts to public access in reviewing the proposed project and found that "the development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project will not impede public access or impact public views to coastal resources." Moreover, the project approved by the City does not include any development within the private easement area in question.

With regard to placement of windows within the proposed residence, this appears to be a reference to the City's Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/privacy issues, such as window alignments, building pad height, and floor plan layout. This ordinance is part of the City's certified Implementation Plan (Section 230.22). The City's approval of the project included review of the proposed placement of windows adjacent to the property to the south. The windows at the first floor will all have a bottom elevation of 7 feet, thus their placement will not create a privacy issue with the neighboring property while still allowing light and ventilation within the proposed project. The proposed project does not include any windows on the south side of the second floor. The City's Implementation Plan is comprised of the entire Zoning and Subdivision Ordinance. Consequently, not everything in it applies to local application of Coastal Act standards. It is not unusual for local governments to tailor existing documents to serve as the Implementation Plan. This increases efficiency by reducing the overall number of documents that must be consulted when reviewing a project. Application of the Infill Lot Ordinance does not rise to a level of regional or statewide significance. But even so, the City did adequately address this issue as described above and so the project can be found in conformance with Section 230.22 of the City's certified Implementation Plan.

4. Conclusion

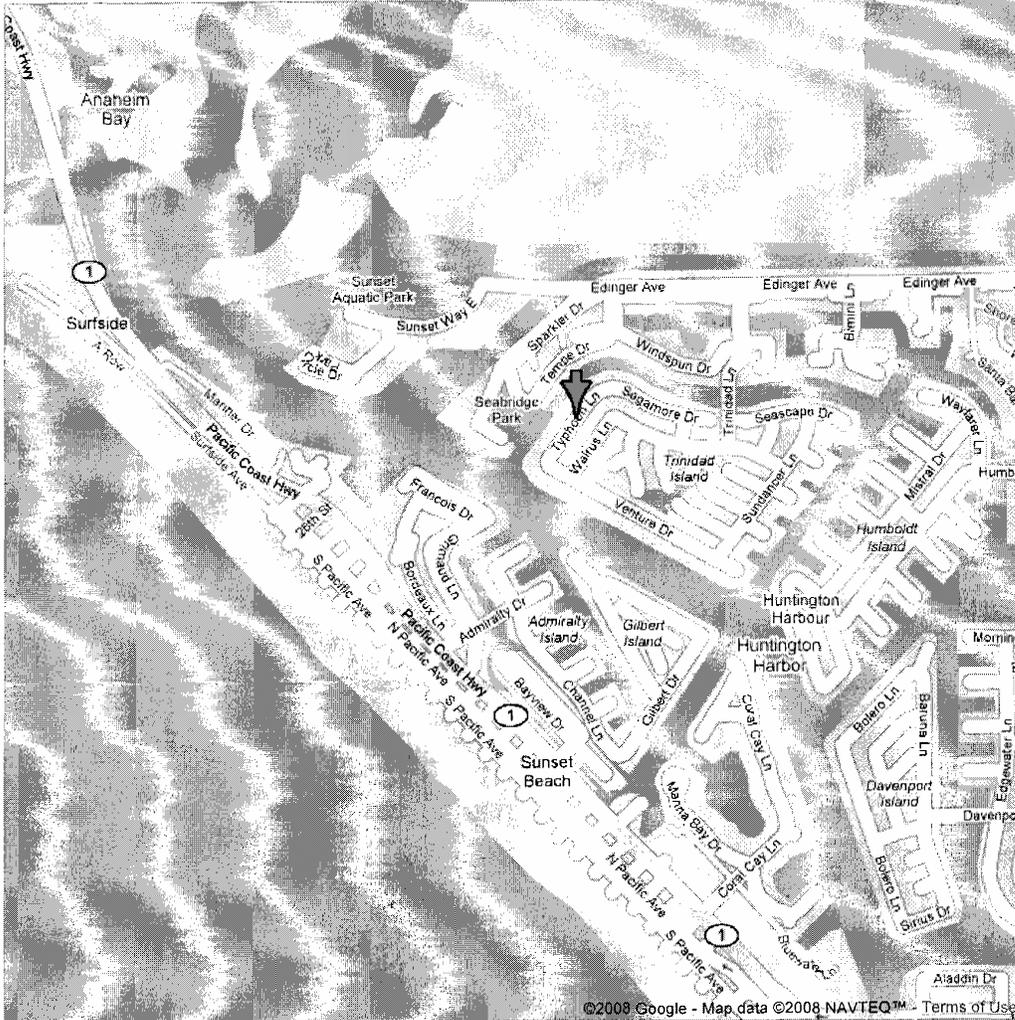
The project approved by the City is consistent with the certified land use designation for the subject site and with the development standards of the certified LCP. As described above, the City reviewed the project for consistency with the certified LCP and the public access policies of the Coastal Act, and subject to special conditions which were imposed by the City, the project as approved by the City is consistent with the LCP including the hazard and public access policies and with the public access policies of the Coastal Act. Therefore, the appellant's contentions do not raise a substantial issue with regard to consistency with certified LCP.

In conclusion, the Commission finds that the proposed project is consistent with the City's certified LCP and the public access policies of the Coastal Act. In addition, the project approved by the City does not raise significant issues in terms of: 1) the supporting documentation for the local action, 2) the extent and scope of the approved development, 3) the significance of the coastal resources affected; 4) the precedential nature of the project, or 5) raising issues of a regional or statewide significance. Therefore, the Commission finds that no substantial issue exists with the approval Local Coastal Permit 2007-013 on the grounds that it does conform to the City of Huntington Beach certified Local Coastal Program and with the public access policies of the Coastal Act.



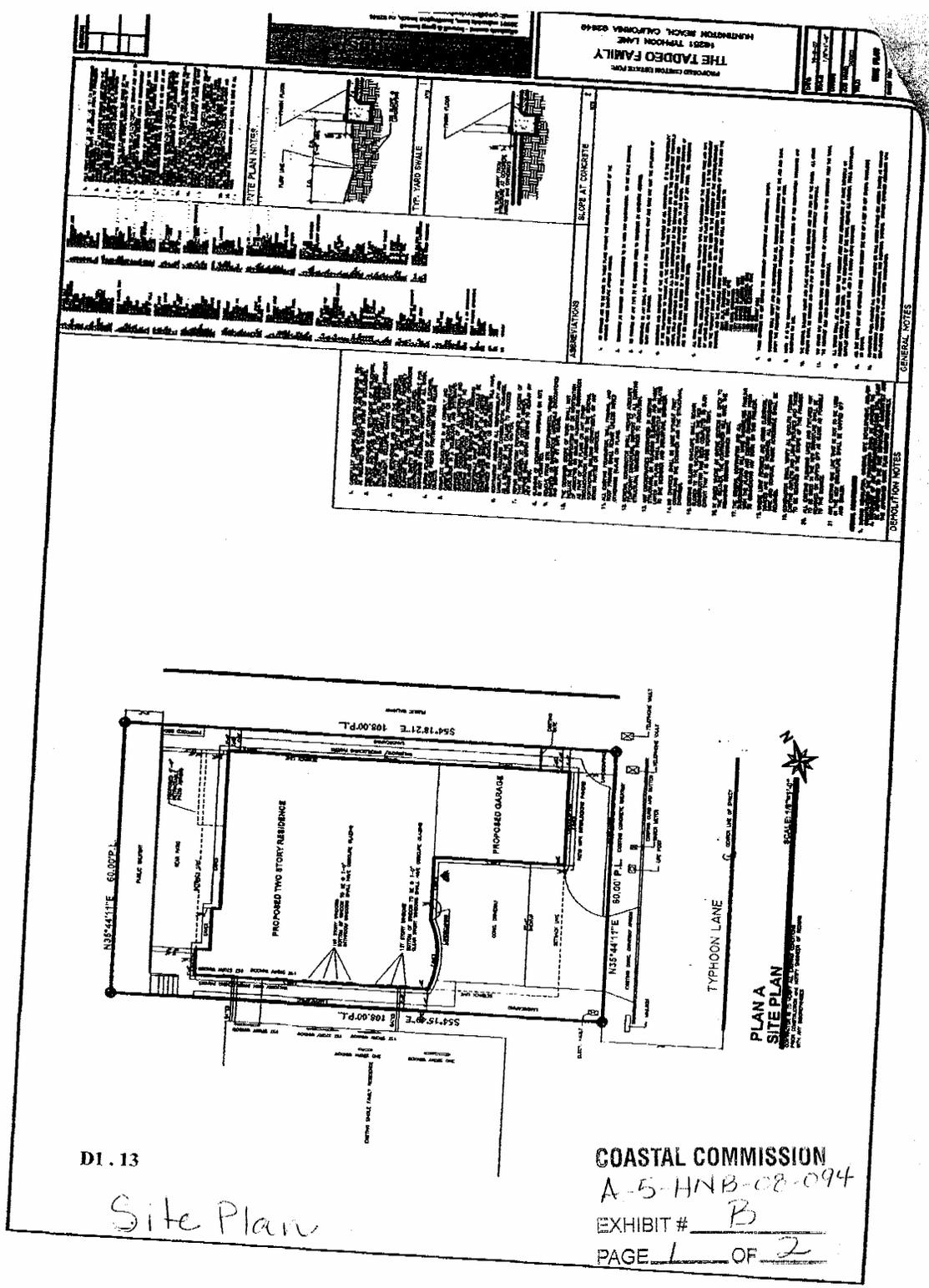
Address **16251 Typhoon Ln**
Huntington Beach, CA
92649

Get Google Maps on your phone
Text the word "GMAPS" to 466453



VICINITY MAP

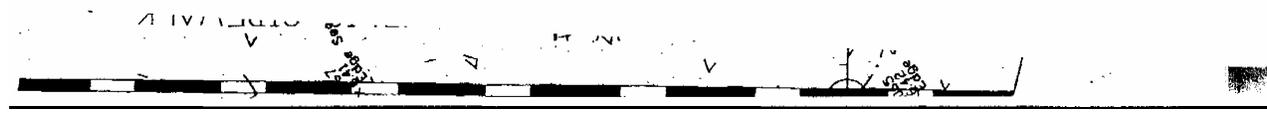
COASTAL COMMISSION
A-5-HNB-08-094
EXHIBIT # A
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D1.13

Site Plan

COASTAL COMMISSION
 A-5-HNB-08-094
 EXHIBIT # B
 PAGE 1 OF 2



CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084

RECEIVED
South Coast Region

ARNOLD SCHWARZENEGGER, Governor



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Don Evans

Mailing Address: 16261 Typhoon Lane

City: Huntington Beach

Zip Code: 92649

Phone: 562-714-7855

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Huntington Beach

2. Brief description of development being appealed:

Permit to demolish existing house and construct a two story house at 16251 Typhoon Lane, Huntington Beach, CA 92649

3. Development's location (street address, assessor's parcel no., cross street, etc.):

16251 Typhoon Lane Huntington Beach, CA 92649

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-HNB-08-094

DATE FILED: 4/1/08

DISTRICT: South Coast / Long Beach

A-5-HNB-08-094

Exhibit C
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5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: March 6, 2008

7. Local government's file number (if any): Permit 07-013

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Robert and Mary Taddeo 16251 Typhoon Lane, Huntington Beach, CA 92649

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Mr. Todd Swain, 16271 Typhoon Lane, Huntington Beach CA 92649

(2) Mr. John Erskine, Nossaman, Guthner, Knox and Elliott 16161 Von Karman Avenue, Suite 1800 Irvine, CA 92612

(3) Mr. Dan Carlton 19700 Fairchild Road, Suite 280, Irvine, CA 92612

(4) Mr. Victor Cohn, 16281 Typhoon Lane, Huntington Beach, CA 92649

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SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Subsequent to the City Council approval of Permit 07-013 by the City of Huntington Beach, the applicant submitted a Geotechnical Investigation prepared by Coastal Geotechnical that more fully described the soils conditions for this project. The soils are unconsolidated dredged material to a depth of approximately six feet below the existing site grade and consists of generally of very moist to wet loose to medium dense and soft to firm dark gray clayey sand with scattered fine organic debris. The existing soil must be removed and replaced to a level of three feet below grade and five feet from the edge of the foundation in order to provide adequate support for the larger two story structure. In addition, the existing soils below the three foot level shall be scarified to a minimum depth of six to eight inches and recompacted to a relative compaction of 90 percent. Based on the existing wet soil, it is impossible to recompact the existing soil to 90 per cent density, so additional wet soil will need to be removed, likely to the level of the original ground surface, which is six feet below the existing site grade. Removal of this unconsolidated soil will have the following potential impacts:

1. Removal of this material with the associated temporary slope from the bottom of the excavation involves the taking of adjacent property owner's exclusive easement and five feet of the adjacent property, to within six inches of adjacent foundation. Depending on the foundation design, the actual excavation may be below the foundation of the adjacent house. Removal of this unconsolidated material is likely to undermine and weaken the soil under the foundation of the adjacent house, causing this house to settle immediately or have a negative impact on this house in the event of an earthquake.
2. In addition to undermining the adjacent house, removal of this material will likely also undermine the the public access easement and walkway on the north side of said property. When this construction occurs, public access to the marina and walkway will be negatively impacted.
3. The excavation and recompaction with structural fill will also likely have a negative impact on the structural integrity of the marina headwall and have negative water quality impacts.
4. The amount of material removed, likely in excess of 250 cubic yards, will have negative traffic and sediment impacts on the existing residential area and streets. The replacement structural fill, also approximately 250 cubic yards, will also impact traffic in the neighborhood.

The Project as approved also is inconsistent with the original subdivision approval of Tract 8636 by the Coastal Commission approved in the late 1970's. In this approval, the Coastal Commission allowed waterfront access by the homes in the subdivision on one side of the home. An easement to the property on the other side of the home was granted to the adjacent property owner as part of the subdivision as

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originally approved. Approval of the project with the subsequent geotechnical investigation eliminates the exclusive easement that was part and parcel of the original Coastal Commission approval process .

In addition , as part of the original approval of the exclusive easements, windows were not allowed on the houses facing the easement that had been granted to the adjacent property owner. The project as approved will allow windows onto the easement, eliminating the exclusive nature of the easement that was specifically approved in the original filing. of Tract 8636.

The development of 16251 Typhoon Lane does not conform to the standards set forth in the Huntington Beach Local Coastal Plan or the public access policies set forth in the Coastal Act. (Public Res CodeSection 30603(b) (1).

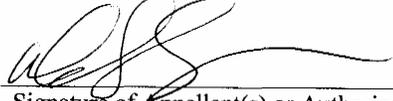
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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



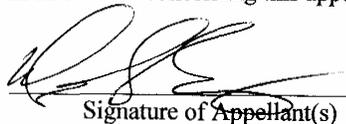
Signature of Appellant(s) or Authorized Agent

Date: March 17, 2008

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Mr. John Erskine
to act as my/our representative and to bind me/us in all matters concerning this appeal.



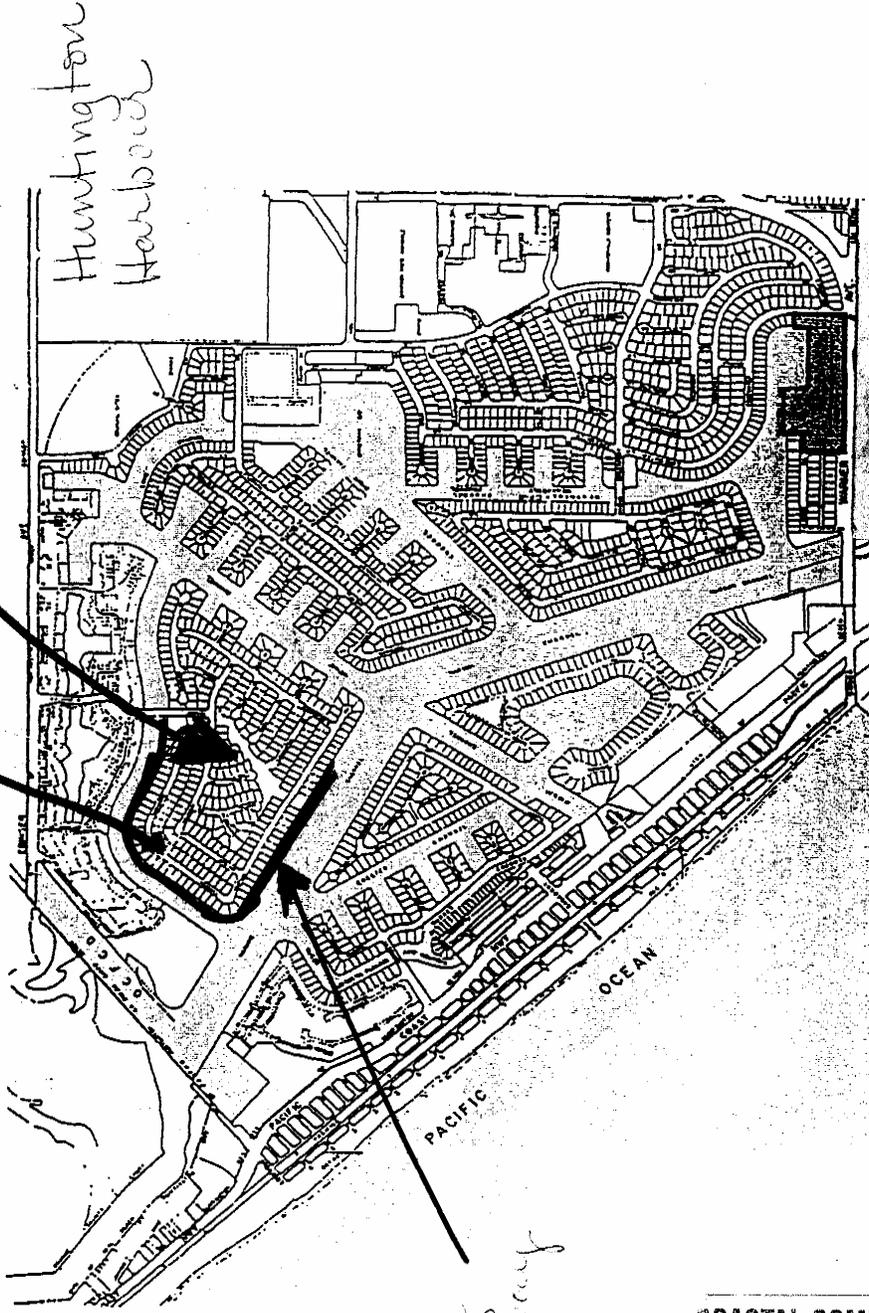
Signature of Appellant(s)

Date: March 17, 2008

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Applicant home Trinidad Island

Project Area Description



public access walkway

