

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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W16a

Filed: October 27, 2011
49th Day: Waived
Staff: T. Ross-SD
Staff Report: January 19, 2012
Hearing Date: February 8-10, 2012

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approved with Conditions

APPEAL NO.: A-6-OCN-11-080

APPLICANT: Deena Altman

PROJECT DESCRIPTION: The construction of a 460 sq. ft. third-story addition and associated improvements to an existing 3,042 sq. ft., two-story over basement home on 4,761 sq. ft. ocean fronting lot.

PROJECT LOCATION: 1823 South Pacific St. Oceanside, San Diego County.
APN 153-250-08

APPELLANTS: Gregory and Dawn Swadjan

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 appellants raise several issues, but the primary focus of the appeal is that the approved development is inconsistent with the City's LCP in that the construction of the addition will result in a four story home (3 levels and 1 basement level) in a district where only 2 levels over a basement is permitted. The additional level was approved by the City through the issuance of a variance. The City's basis for issuing the waiver was that strict application of the 2-story limit would deprive the applicant of such property rights enjoyed by other properties in the vicinity and in the same zone classifications that have residences with the appearance of similar bulk, scale, and mass as other homes in the neighborhood. Additional concerns raised by the appellants include lack of adequate parking, and an inadequate rear yard, or "Stringline" setback.

Based on review of the City's file and information provided by the appellant and applicant, staff has concluded that the development does not raise a substantial issue regarding consistency with all applicable LCP provisions, in that the additional level,

which was approved through issuance of a variance, in this case, is similar in scale and character to the surrounding community and will not result in any significant adverse impacts to public access, recreation, or public views. Staff further finds that the two remaining contentions raised by the appellants (adequate parking and setbacks) can be found consistent with the City's LCP as approved by the City.

Standard of Review: The City of Oceanside's certified Local Coastal Program and the public access and recreation policies the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Oceanside Local Coastal Program; Appeal Form submitted by Gregory and Dawn Swadjian; Staff Report to the City of Oceanside Planning Commission dated September 19, 2011; City of Oceanside Resolution of Approval No. RC10-00009; letter from the applicant's engineer titled "Stringline Setback –Altman Residence," dated December 15, 2011; Emails from Paul Longton dated December 21, 2011 and January 4, 2012.

I. Appellants Contend That: The appellants contend that the proposed project, as approved by the City, includes improvements that will facilitate an additional level on the western elevation of the home where the zoning does not allow it. As currently constructed, the home is comprised of two levels over a daylighted basement (ref. Exhibit #3, Page 4). After construction is complete, the home will be three levels over a basement (ref. Exhibit # 3, Page 4) on the western side of the home. The zoning for the area (Residential 1/R-1) only permits a maximum of two levels above a basement. The City issued a variance in order to approve the additional level. Because the property already has an adequate economic use, the appellants contend that this approval of the variance cannot be found consistent with the City's LCP.

The appellants further contend that the project, as approved by the City, will lengthen of two existing west-facing decks 3 ½ feet beyond the rear yard or "stringline" setback. While allowing decks to be located beyond the stringline is permitted, the City's LCP states that such expansion shall only be permitted provided that the expanded area will not substantially impair views from adjoining properties. The appellants contend that the deck expansion will obstruct views from the neighbors to the north and south. The appellants also contend that the parking is insufficient, given that the home currently is developed with a one-car garage, which is not utilized by the property owners for parking their automobiles. Lastly, the appellants contend that not only is a four level home (three stories over a basement) inconsistent with the City's LCP, the City approved the development using a finding for a variance that is also inappropriate.

II. Local Government Action. The City of Oceanside Planning Commission approved the project on September 26th 2011. No appeals were filed, thus the approval was finalized on October 10th, 2011. While the City's planning staff was recommending denial of the variance for the project, the Planning Commission approved the variance

and included specific findings for that approval. These included that there are special circumstances warranting approval of a variance due to the steep topography of the lot precluding the creation of a double basement resulting in three stories where two stories are allowed by the 1986 zoning ordinance. Strict application of the 2-story limit would deprive the applicant of rights enjoyed by other property in the vicinity and in the same zone classifications that have residences with the appearance of similar bulk, scale, and mass as other homes in the neighborhood.

III. Appeal Procedures/Substantial Issue Analysis. After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

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.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, 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. At the time of the de novo hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. titl. 14 section 13155(b)). 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 certified LCP;
2. The extent and scope of the development as approved or denied 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 only 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 the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellant's contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-OCN-11-080 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of **No Substantial Issue** and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. **A-6-OCN-11-080** does not present a 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.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. **Project Description.** The City-approved project includes various improvements to an existing 3,042 sq. ft. home. The home appears as a two-story structure on its east side from South Pacific Street but includes two additional levels terracing down the existing bluff on the west. Beginning on the inland side on the home abutting South Pacific Street, the existing structure is two levels. Moving westward, as the lot slopes down in elevation, the home cascades down the bluff where it transitions into two levels over an exposed (daylighted) basement on the western, oceanfront side (ref. Exhibit #3, Page 4).

The development approved by the City of Oceanside includes adding 460 sq. ft. of habitable space comprised of a third level above the existing two-level plus basement residence including new open deck areas on both the east and the west side of the addition. Other improvements include the westward extension (by approximately 3.5 ft) of existing open deck areas on the existing second and third levels. Lastly, associated with the approved development, the applicant will also remove approximately 6.5 ft. of habitable space on the east side of the second level of the home adjacent to South Pacific Street. As currently constructed, both levels on the east side of the home observe a maximum of 3-foot front-yard setback, with virtually no articulation (ref. Exhibit #5). This, coupled with the 10 ft. concrete retaining wall on the east side of Pacific Street, contributes to what some refer to as the “canyonization” of South Pacific Street. Through the removal of 6.5 ft. from the front section of the second level, the project will supply articulation, reducing the “canyonization” effect in this community. The project will recapture this lost square footage through the proposed addition on the west side of the home, resulting in the fourth western level (new third level). However, the home is located in the Residential 1 (R-1) zoning which only permits a maximum of two levels over a basement. Again, the City approved the third level through issuance of a variance.

The subject site consists of a 4,761 sq. ft. lot measuring 30 ft. wide and 158 ft. deep. The site is located in an area established in 1904 as part of the Ocean Front Addition, when nearly a mile of beachfront property extending from Witherby Street to Eaton Street was subdivided into 30 ft. wide lots. The subject site is typical in dimensions and topography to adjacent lots; an interior lot bounded by South Pacific Street to the east, the ocean to the west, and single family homes to the north and south. The lot exhibits a steep (approximately 30%) downward slope from the street frontage to the west. The lot is currently improved with a rock revetment that was constructed prior to enactment of the Coastal Act and which is in good condition. The approved development will not result in the need for additional reinforcement to the revetment. As such, no work to the revetment is proposed associated with the subject development.

2. Consistency with Certified LCP.

The City found that the proposed addition is consistent with the provisions of the certified LCP.

A. Scale of Development. The City of Oceanside's LCP has Land Use Plan (LUP) provisions that address the appropriate scale of development. These provisions state, in part:

VI. Visual Resources and Special Communities - Policies

1. In areas of significant natural aesthetic value, new development shall be subordinate to the natural environment.

[...]

8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

The City of Oceanside's LCP also contains a section titled "Coastal Development Design Standards." The applicable policies contained within the certified document are listed, in part, below.

Coastal Development Design Standards- II Existing Coastal Landscape; Preserving Oceanside's Neighborhoods

Significant Areas

[...]

5. South Oceanside – The area known as South Oceanside encompasses several different neighborhoods and land uses. For the purposes of this discussion, South Oceanside is broken down into sub-neighborhoods of: the beach residential area

(west of Hill Street); Hill Street Corridor; St. Malo; the residential area east of Hill Street; and the properties fronting on Buena Vista Lagoon.¹

- a. Beach Residential Neighborhood – This area consists of a mixture of residential densities and housing types. Most architecture in the area is contemporary, and styles range from austere stucco box apartments to large, modern beach front luxury homes. Natural vegetation is sparse in this area, and introduced landscaping is confined to salt tolerant species due to the influence of coastal breezes and salt air. *Because of the narrow frontage lots, many of the beach front lots have been developed with “boxy” buildings.* Stucco and wood are the predominant building materials, and colors on the more modern buildings are generally muted earth tones. (Emphasis added)

The City of Oceanside’s LCP Section VI – *Visual Resources and Special Communities* - has a provision addressing scale of development and states:

Policy 8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

Section 1709: Height. No building or structure shall be erected or enlarged unless such building or structure complies with the height regulations for the zone in which the building or structure is located or proposed to be located. For purposes of determining the height of a building or structure, the average finished grade of the parcel on which the building or structure is located shall be used.

The maximum height of any building or structure shall be as follows:

- (a) No building or structure located in the R-A, R-1, R-2, PRD or SP zone shall exceed a height of **35 feet or two stories, whichever is less.** [emphasis added]

The City of Oceanside’s LCP Implementation Plan Article 19 – *Variances* - includes the purpose and necessary findings for approving variances, and states in part:

Section 1900: Purpose

[...]

The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting special privilege not shared by other property in the same vicinity or zone.

Section 1901: Required Showing for Variance. Prior to the granting of any variance it shall be shown:

¹ Since the time of this policies’ certification, Hill Street has been renamed Pacific Street

- (a) That there are special circumstances applicable to the property because of size, shape, location, topography, easements, or surrounding that, with the strict application of the terms of the ordinance, deprives such property the rights enjoyed by other property in the vicinity and in the same zone classification.
- (b) That the granting of the variance will not constitute a special privilege to the property.
- (c) That the granting of the variance will not adversely affect any Specific Plan, Precise Plan, or General Plan adopted or being studied for the area.
- (d) That the granting of the variance will not be materially detrimental or injurious to the surrounding property nor to the general development pattern of the neighborhood.

The appellants contend that the development, as approved by the City, raises LCP consistency issues with regard to the design and scale of the development. Specifically, the City approved a third story addition (above a basement), presenting as a fourth floor on the western oceanfront side of the home, inconsistent with the applicable design restrictions. Again, as approved by the City, the addition will clearly result in *three levels* over an exposed basement, inconsistent with the City's LCP. Instead, the City approved the additional level through the approval of a variance. The City's policies authorizing the granting of variances are very specific. Generally speaking, there must be a special circumstance that could allow the constraints to development at that particular site to be considered *distinct*. Specifically, the City includes four required findings for granting a variance. The first finding requires the showing of special circumstances. In this case, the lot size, lot shape, topography, etc. is similar to the surrounding lots for the entire South Oceanside neighborhood, so it is difficult to see how this finding can be made in this case. The second finding requires that the granting of the variance not constitute special privilege. The third requirement is not applicable as it pertains to areas also restricted through specific plans, and such is not the case here. The final finding for granting of a variance requires that the variance will not be detrimental to the surrounding property or to the general development pattern of the neighborhood.

The City's review for the issue of the variance included that while a few homes in the surrounding community may appear to also consist of three levels over a basement, it did not have sufficient information to fully evaluate how those structures were approved by the City. The report further indicated that the City underwent historical review efforts, and only two other variances were found that facilitated similar development. Both of these variances were issued over twenty years ago, and the particular findings for granting of those variances are unclear. The City did not include the address or related coastal development permit numbers for either of these previous variance approvals. The City's report further included that the remaining four-level homes may actually be two levels over a two level basement, a development consistent with the City's LCP under certain conditions, or they were possibly constructed inconsistent with the approved building plans. As such, it is unclear if the City's approval of a variance in this circumstance is consistent with the City's LCP.

To address the concerns raised by the appellants, the applicant's agent underwent a separate historical review effort and submitted a review of the surrounding residences for a span of over twenty years (ref. Exhibit #8). This submittal indicated that between the addresses of 1635 and 1947 South Pacific Street (approximately 45 properties), 14 of these appeared to have four levels on the western side, nine of which had coastal development permit files that were reviewed. Of the nine properties with CDPs, four were described as 2-stories over a basement, and four were given variances for height and/or levels, and one was approved as three levels over a basement without the issuance of a variance. While the discrepancy between the number of variances found by the City and the applicant (the City's staff report found two while the applicant found four) is uncertain, the additional two variances found by the applicant could be variances for height or they could be from CDP's that were issued before the City's historical review timeline.

While Commission staff cannot confirm the method by which the surrounding homes were approved, developed, etc., staff, through visits to the site and surrounding homes, has confirmed that many of the homes in the south Oceanside neighborhood do present as four levels on the western/oceanfront side. Additionally, while the number of levels involved with this project are not consistent with the City's LCP requirements, the height of the home is still under the maximum allowable height in the area. Moreover, the additional level of the home will not result in impacts to public views. Specifically, the side views of the house to the beach would be mostly obscured due to the orientation of the bluffs in relation to house siting and the adjacent residential developments. The only opportunity for views between the homes is through side-yard setbacks and 75% see-through fencing, both of which the subject development will be adhering to. Additionally, the subject and surrounding development already obstruct any ocean views from Pacific St. westward. Thus, the only potentially significant public beach view is from the seaward side of the home is along the beach. In this case, and as previously stated, while the home will present as four stories on the western side of the home, this is not atypical of the surrounding community (ref Exhibit #6). Additionally, because the height of home is below the maximum allowed, the approved development will not result in a structure that would be out of scale with the surrounding community, in that although many of the homes in the area are not 4 stories, they are still similar in bulk, scale and height to those that are 4 stories. More specifically, many of the three story homes still reach elevations close to the height limit on the district (35' ft.) even though the homes are only constructed with three levels. Thus, the additional story does not necessarily result in a bigger structure as viewed from the beach. As such, the Commission concludes that approving a four level home under these circumstances, while not directly consistent with the City's LCP, still results in a project that will not adversely impact coastal resources when it is considered within the context in which it will be built. Therefore, when taking into account all of the substantial issue factors, as discussed in more detail below, the development as approved by the City does not result in a substantial issue of conformity with the LCP based on the contentions raised by the appellants.

B. Rear-yard “Stringline” setback

The City of Oceanside’s LCP Implementation Plan Article 17 – *General Provisions, Development Standards, Conditions, and Exceptions* - includes height restrictions for homes located in the R-1 district and states in part:

Section 1703: Rear Yards

- (e) Notwithstanding any other provisions of this Section, buildings or structures located on lots contiguous to the shoreline shall be compatible in scale with existing development and shall not extend further seaward than the line established on the “Stringline Setback Map” which is kept on file in the Planning Division. Appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the Stringline Setback Map providing that they do not substantially impair the views from adjoining properties.

An additional contention raised by the appellants is that the approved development would result in construction of rear balconies off the second and third levels of the structure beyond the permitted rear-yard setback established by the City’s western “stringline” setback. The “stringline” in this case is a line on a map loosely following the line of development on the beach-fronting homes along the City’s coast. The certified “Stringline Setback Map” was developed in 1983 by overlaying an imaginary stringline on an aerial photo of the shoreline in the City of Oceanside. The map shows how far new development may extend towards the ocean. The stringline map was based on existing building patterns, as well as anticipated future developments and remodels/expansions. This “stringline” was certified by the Commission in 1986 as part of the City’s Local Coastal Program. These maps are kept on file in the City’s Planning Division and are used to determine the westernmost boundary for any proposed development along the shoreline. The goal of limiting new development to extend no further seaward than the stringline is to restrict encroachment onto the shoreline and preserve private and public views along the shoreline.

The approved development includes the westward extension of existing open deck areas on the existing beach-side second and third levels; these open decks would extend an additional 3.5 feet to the stringline setback. However, the City failed in its review to include how the specific stringline setback for the subject property was determined, and, as such, it is unclear that the appropriate setback was required. The appellants contend that if a miscalculated stringline was accepted by the City, a new line of development could be established in the area. The result being that future proposals may also include the newly established and incorrect rear yard setbacks that would potentially be inconsistent with established community character, and could also potentially result in impacts to coastal views. Because of this, the standardized method for verifying a proposed stringline against the City’s Stringline Setback Map must be stringently followed for a project to be consistent with the City’s LCP. Through review of the subject appeal, the Commission concluded that while the City does maintain the aerial

photos with the stringline drawn on them, there has not yet been a comprehensive effort by the City to plot the stringline through GPS, or similar locating technologies. To date, both architects and the City simply use an adjacent and clearly identifiable feature to then scale to the stringline on the map. The problem with this process is twofold. First, scaling using features can lead to discrepancies, and second, the stringline itself, when scaled to the map is approximately five feet wide, again resulting in potential discrepancies. As a result of the concerns raised by the appellants, the applicant's engineer submitted a detailed description of how the stringline was determined at this location (ref. Exhibit #7). The engineer did in fact scale from an identified feature; in this case the westerly edge of the sidewalk on the eastern side of South Pacific Street was utilized. The engineer then measured to the inland, or most conservative, edge of the stringline, and determined the setback. Commission staff has reviewed what was submitted by the applicant's land surveyor, and agrees that, in the absence of traditional survey methods, this is both the most accurate and most conservative way to determine the appropriate setback. Additionally, and as previously stated, the City's LCP allows for development of patios, decks, etc. beyond the stringline, as long as such development does not significantly block adjacent private views. Staff has visited the site of the approved location and has determined that not only will the expansion not significantly impair adjacent private views, it will also not result in impacts to any existing public views. The project, therefore, does not raise a substantial issue of conformity with the LCP with respect to visual impacts.

C. Parking.

City of Oceanside LCP Land Use Policies – Beach Parking

12. If existing beach parking is removed for any reason, one-to-one replacement parking shall be provided west of the railroad right-of-way.
17. The City shall require that all new residential development provides adequate on-site parking. In areas where beach parking demand is critical, requirements for new residential development shall be strictly enforced. Curb cuts for new development shall be held to a minimum to preserve existing on-street parking.
22. The City shall continue to monitor beach usage and parking availability and adjust policies as needed.

Zoning Article 27 – Off Street Parking

Section 2701: Intent. Every building, or portion of building hereinafter erected, shall be provided with such parking space as provided in this Article, and such parking space shall be made permanently available and be permanently maintained for parking purposes provided, however, that any alterations or additions providing less than five hundred (500) square feet of additional floor space shall be exempted from this requirement. Provided further than (sic) when an addition is made to an existing

building only the square feet in the addition need to be used in computing the required off-street parking.

<u>Use</u>	<u>Parking Spaces Required</u>
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Residential Uses

Single family dwelling 2 car garage per dwelling unit

The last contention submitted by the appellants is that the City's review of the project failed to address the lack of existing off-street parking. The existing home is constructed with a one-car garage, whereas the applicable standard for off-street parking requires a two-car garage. Additionally, because the home maintains a three foot setback off Pacific St. there is also no driveway to accommodate any additional parking needs. As such, the residence is considered an "existing, non-conforming structure," in that the parking is less than what is currently required. Therefore, the appellants contend that the project could result in impacts to public access by usurping free public parking on Pacific Street to accommodate private parking needs. In this case, however, the project only proposed an additional 460 sq. ft. addition to an existing master bedroom, and it will not increase the number of rooms. The City LCP does not require parking to be brought into conformity if the proposed additional square footage is less than 500 sq. ft. Again, the approved development is only proposing 460 sq. ft. of additional space. Thus, the project will not result in an increase in the degree of nonconformity and meets the LCP requirements. Therefore, the applicant can maintain the one car garage, and the project can still be found to be consistent with the City's LCP.

The City also has LCP policies to address the protection of existing public beach parking. Staff has visited this area of South Oceanside on numerous occasions and has found that the current available on-street public parking supply in this section of Pacific St. is greater than the demand. Additionally, Buccaneer Beach Park also provides an additional forty unrestricted public parking spaces and is located in walking distance to the subject property.

Therefore, the existing parking can be found consistent with the City's LCP because the addition is less than 500 sq. ft. and the current public parking supply is adequate. As such, the project does not raise a significant issue for the contention related to inadequate on-street parking requirements.

3. Conclusions. In conclusion, the appellants have raised three main contentions associated with the approved development: First, the project includes a four level home in a district where only three levels are permitted; second, there is insufficient parking; and third development will occur beyond the certified rear yard setback. Staff has reviewed the City's approval and has concluded that the approval can be found consistent with the City's LCP regarding parking and rear yard setbacks. And, while four levels cannot be found consistent with the City's LCP, and the findings required for issuance of a variance do not appear to be met here, the approved development will nevertheless

appear similar to many other structures in the surrounding area and thus, will not result in any adverse coastal resource impacts. And, as described below, the project does not otherwise meet the criteria to find that it raises a substantial issue.

4. Substantial Issue Factors. Generally speaking, the Commission considers five specific findings when considering whether a project raises a “substantial issue.” These factors are listed on Page 4 of this staff report and, taken together; they do not support a finding of substantial issue in this case. As discussed above, there is strong factual and legal support for the City’s determination that the proposed development is consistent with the certified LCP, except for the policy allowing only two floors over a basement. While this policy is not met, the proposed project is for a minimal development in an area with an established scale of development similar to that proposed, and the project will not adversely affect coastal resources. Thus, the minimal extent and scope of the development supports a finding of no substantial issue, and there are no significant coastal resources affected by the proposed project, also supporting this conclusion. Because the conclusion that this project will not adversely affect coastal resources is based on the very specific facts and context in which this development will be constructed, this appeal does not raise any substantial issues of regional or statewide significance. Finally, the City’s approval of this coastal development permit will not create an adverse precedent for future interpretation of this LCP. Thus, taken together, these factors support a finding that the appeal does not raise a substantial issue with respect to this project’s conformity with the City’s certified LCP.

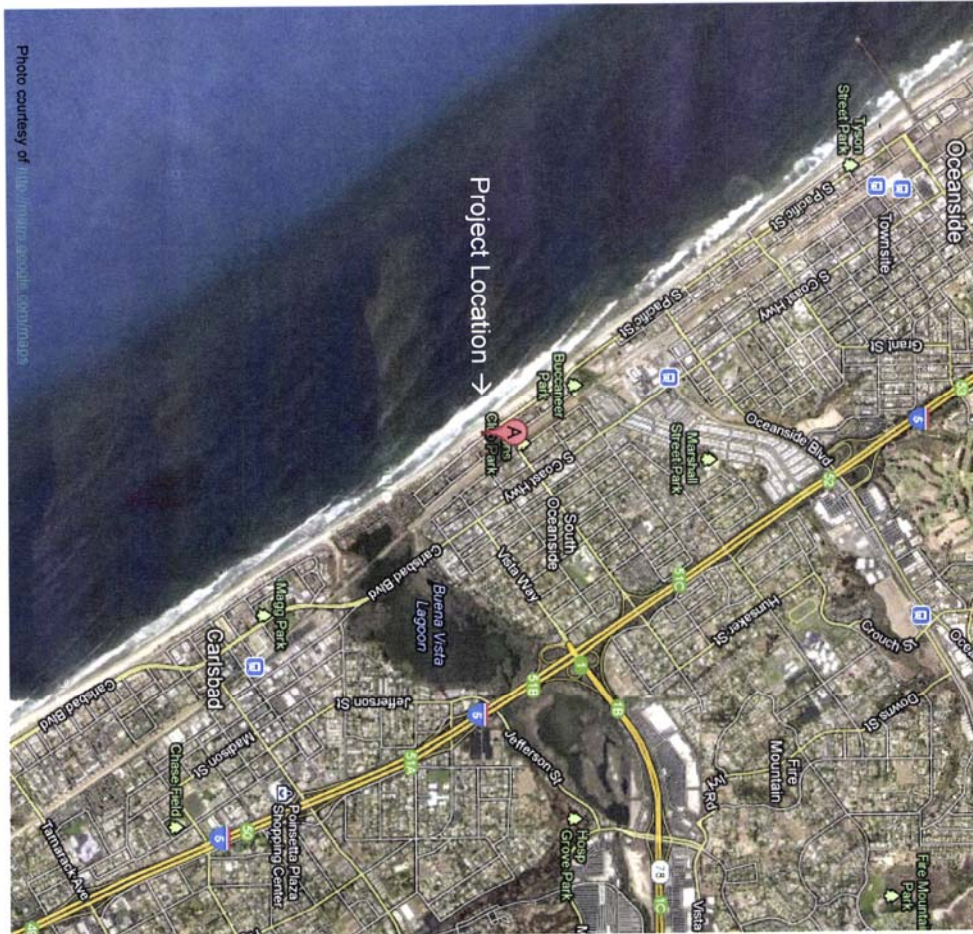


EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-11-080
Location Map
 California Coastal Commission

PLANNING COMMISSION
RESOLUTION NO. 2011-P30

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF OCEANSIDE, CALIFORNIA APPROVING A
REGULAR COASTAL PERMIT AND VARIANCE ON
CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: RC10-00009, V11-00004
APPLICANT: Deena Altman
LOCATION: 1823 South Pacific Street

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES
RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms
prescribed by the Commission requesting a Regular Coastal Permit (RC10-00009) and Variance
(V11-00004) under the provisions of the City of Oceanside Local Coastal Program and 1986
Zoning Ordinance to permit the following:

the addition of enclosed habitable space and open deck area to an existing single-family
detached residence located at 1823 South Pacific Street;
on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 12th day
of September, 2011 conduct a duly advertised public hearing as prescribed by law to consider said
application;

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
Guidelines thereto, this project has been found to be exempt from environmental review per Article
19, Section 15303 (b);

WHEREAS, there is hereby imposed on the subject development project certain fees,
dedications, reservations and other exactions pursuant to state law and city ordinance;

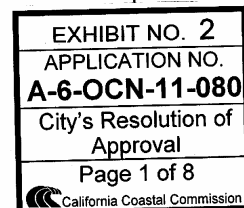
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WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that the project is subject to certain fees, dedications, reservations and other exactions as provided below:

Description	Authority for Imposition	Current Estimate Fee or Calculation Formula
Parkland Dedication/Fee	Ordinance No. 91-10 Resolution No. 06-R0334-1	\$3,503 per unit
Drainage Fee	Ordinance No. 85-23 Resolution No. 06-R0334-1	Depends on area (range is \$2,843-\$15,964 per acre)
Public Facility Fee	Ordinance No. 91-09 Resolution No. 06-R0334-1	\$.713 per square foot or \$713 per thousand square feet for non-residential uses and \$2,072 per unit for residential
School Facilities Mitigation Fee	Ordinance No. 91-34	\$.42 per square foot non-residential for Oceanside (\$.42 for Vista and Fallbrook) \$2.63 per square foot residential (\$2.63 for Vista; \$2.63 for Fallbrook)
Thoroughfare Fee (For commercial and industrial please note the 75 percent discount)	Ordinance No. 83-01 Resolution No. 06-R0334-1	\$255 per vehicle trip (based on SANDAG trip generation table available from staff and from SANDAG)
Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 05-OR 0611-1	Fee based on water meter size. Residential is typically \$4,597 per unit; Non-residential is \$36,775 for a 2" meter.
Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 05-OR 0610-1	Based on capacity or water meter size. Residential is typically \$6,313 per unit; Non-residential is \$50,501 for a 2" meter.

1	San Diego County Water	SDCWA Ordinance No.	Based on meter size.
2	Authority Capacity Fees	2005-03	Residential is typically
3			\$4,326 per unit; Non-
4			residential is \$22,495 for a 2"
			meter.

5 WHEREAS, the current fees referenced above are merely fee amount estimates of the
6 impact fees that would be required if due and payable under currently applicable ordinances and
7 resolutions, presume the accuracy of relevant project information provided by the applicant, and
8 are not necessarily the fee amount that will be owing when such fee becomes due and payable;

9 WHEREAS, unless otherwise provided by this resolution, all impact fees shall be
10 calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside
11 City Code and the City expressly reserves the right to amend the fees and fee calculations
12 consistent with applicable law;

13 WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee,
14 dedication, reservation or other exaction to the extent permitted and as authorized by law;

15 WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that
16 the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction
17 described in this resolution begins on the effective date of this resolution and any such protest must
18 be in a manner that complies with Section 66020;

19 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
20 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

21 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
22 the following facts:

23 FINDINGS:

24 For the Regular Coastal Permit:

- 25 1. The proposed addition to an existing permitted single-family residence is consistent with
26 the land use policies of the Local Coastal Program as implemented through the Zoning
27 Ordinance. Specifically, the project will not compromise existing public views within
28 the Coastal Zone area nor produce adverse massing impacts on neighboring properties.
- 29 2. The proposed expansion will not obstruct any existing, planned or required public beach
access, thereby conforming with the policies of Chapter 3 of the Coastal Act.

- 1 3. The proposed expansion will not result in the loss of any on-street public parking
2 resources, nor occasion additional on-site parking requirements.

3 For the Variance:

- 4 1. That there are special circumstances warranting approval of a variance due to the steep
5 topography of the lot precluding the creation of a double basement resulting in three
6 stories where two stories are allowed by the 1986 Zoning Ordinance. Strict application
7 of the 2-story limit would deprive the applicant such property rights enjoyed by other
8 property in the vicinity and in the same zone classification that have residences with the
9 appearance of similar bulk, scale, and mass as other homes in the neighborhood.
10 2. The granting of the variance will not constitute a special privilege to the property. Other
11 similar variances for exceeding the 2-story limit have been granted for homes in the
12 vicinity.
13 3. The granting of this variance will not adversely affect any Specific Plan, Precise Plan, or
14 General Plan standards adopted or being studied for the area. The project site is not
15 subject to any of the aforementioned plans.
16 4. The granting of the variance will not be materially detrimental or injurious to the
17 surrounding property nor to the general development pattern of the neighborhood. A
18 south facing window on the third story in the master bedroom has been redesigned to
19 protect the privacy of the neighbor to the south.

20 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
21 approve Regular Coastal Permit (RC10-00009) and Variance (V11-00004) subject to the following
22 conditions:

23 Building:

- 24 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
25 Building Division plan check. (As of January 1, 2008 the 2007 California Building
26 Code, and 2007 California Electrical Code).
27 2. Construction shall comply with the 2010 edition of the California Codes.
28 3. Construction hours are limited to 7:00 a.m. to 6:00 p.m. Monday through Friday.
29 4. The developer shall monitor, supervise and control all building construction and
supporting activities so as to prevent these activities from causing a public nuisance,
including, but not limited to, strict adherence to the following:

- 1 a) Building construction work hours shall be limited to between 7:00 a.m. and
2 6:00 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00
3 p.m. for work that is not inherently noise-producing. Examples of work not
4 permitted on Saturday are concrete and grout pours, roof nailing and activities
5 of similar noise-producing nature. No work shall be permitted on Sundays and
6 Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day,
7 Thanksgiving Day, Christmas Day) except as allowed for emergency work
8 under the provisions of the Oceanside City Code Chapter 38 (Noise
9 Ordinance).
- 10 b) The construction site shall be kept reasonably free of construction debris as
11 specified in Section 13.17 of the Oceanside City Code. Storage of debris in
12 approved solid waste containers shall be considered compliance with this
13 requirement. Small amounts of construction debris may be stored on-site in a
14 neat, safe manner for short periods of time pending disposal.

14 **Fire:**

- 15 5. Fire Department requirements shall be placed on plans in the notes section.

16 **Planning:**

- 17 6. This Regular Coastal Permit shall expire on September 26, 2013, unless implemented per
18 the Zoning Ordinance or unless the Planning Commission grants a time extension.
- 19 7. This Regular Coastal Permit approves only a 460-square foot third story addition to an
20 existing single-family home and expansion of decks on the front and rear of the home, as
21 presented to the Planning Commission for review and approval. No deviation from these
22 approved plans and exhibits shall occur without Planning Division approval. Substantial
23 deviations shall require a revision to the Regular Coastal Permit or a new Regular Coastal
24 Permit.
- 25 8. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
26 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
27 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
28 annul an approval of the City, concerning Regular Coastal Permit (RC10-00009) and
29 Variance (V11-00004). The City will promptly notify the applicant of any such claim,
action or proceeding against the City and will cooperate fully in the defense. If the City

1 fails to promptly notify the applicant of any such claim action or proceeding, or fails to
2 cooperate fully in the defense, the applicant shall not, thereafter, be responsible to
3 defend, indemnify or hold harmless the City.

4 9. All mechanical rooftop and ground equipment shall be screened from public view as
5 required by the Zoning Ordinance: that is, on all four sides. Roof jacks, mechanical
6 equipment, screens and vents shall be painted with non-reflective paint to match the roof.
7 This information shall be shown on the building plans.

8 10. Prior to the issuance of building permits, compliance with the applicable provisions of the
9 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed
10 and approved by the Planning Division. These requirements, including the obligation to
11 remove or cover with matching paint all graffiti within 24 hours, shall be noted on the
12 Architectural Site Plan and shall be recorded in the form of a covenant affecting the subject
13 property. A covenant or other recordable document approved by the City Attorney shall
14 be prepared by the applicant and recorded prior to the issuance of building permits. The
15 covenant shall provide that the property is subject to this resolution, and shall generally
16 list the conditions of approval.

17 11. Prior to the transfer of ownership and/or operation of the site, the owner shall provide a
18 written copy of the applications, staff report and resolutions for the project to the new
19 owner and or operator. This notification's provision shall run with the life of the project
20 and shall be recorded as a covenant on the property.

21 12. Failure to meet any conditions of approval for this development shall constitute a violation
22 of the Regular Coastal Permit.

23 13. Unless expressly waived, all current zoning standards and City ordinances and policies
24 in effect at the time building permits are issued are required to be met by this project.
25 The approval of this project constitutes the applicant's agreement with all statements in
26 the Description and Justification and other materials and information submitted with this
27 application, unless specifically waived by an adopted condition of approval.

28 14. Elevations, siding materials, colors, roofing materials and floor plans shall be
29 substantially the same as those approved by the Planning Commission. These shall be
shown on plans submitted to the Building Division and Planning Division.

1 15. A covenant or other recordable document approved by the City Attorney shall be prepared
2 by the applicant and recorded prior to issuance of building permits. The covenant shall
3 provide that the property is subject to this Resolution, and shall generally list the conditions
4 of approval.

5 16. The subject structure is legal and non-conforming as to parking, in that only one on-site,
6 covered parking space is provided where two are required. The subject non-conforming
7 structure shall be reconstructed to conform to the parking standard if fifty percent (50%)
8 or more of the total area of the exterior structures of the nonconforming structure,
9 including, without limitation, exterior walls and roofs, are destroyed by intentional
10 demolition. For the purposes of this condition, intentional demolition shall mean the
11 voluntary removal of any building element, including a wall or roof, and shall include
12 work necessary for maintenance and repair.

13 PASSED AND ADOPTED Resolution No. 2011-P30 on September 26, 2011 by the
14 following vote, to wit:

15 AYES:

16 NAYS:

17 ABSENT:

18 ABSTAIN:

19 _____
20 Tom Rosales, Chairperson
21 Oceanside Planning Commission

22 ATTEST:

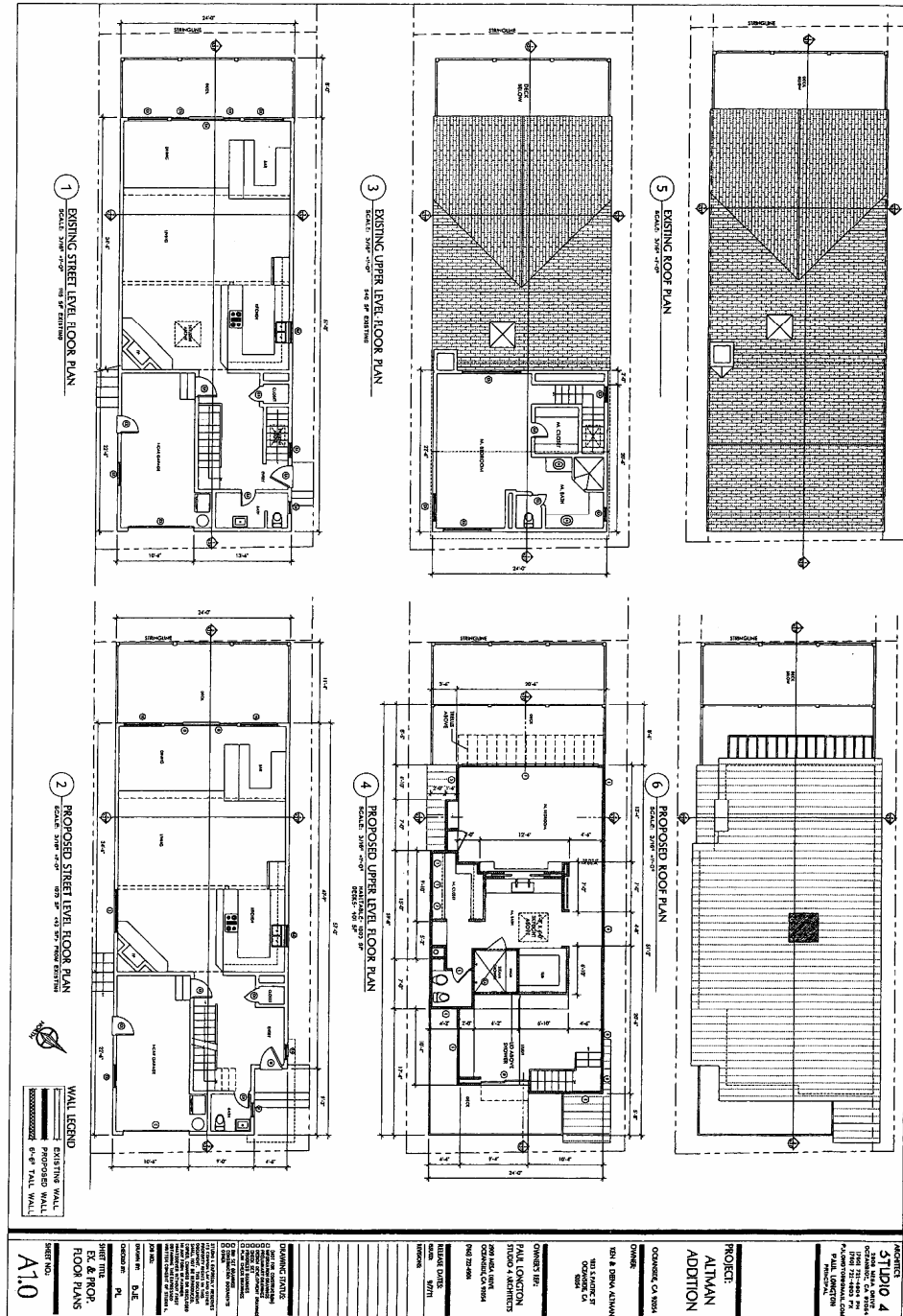
23 _____
24 Jerry Hittleman, Secretary

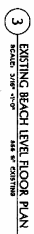
25 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
26 this is a true and correct copy of Resolution No. 2011-P30.

27 Dated: September 26, 2011
28
29

1 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may
2 be required as stated herein:
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4 Applicant/Representative _____ Date _____
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[illegible]

Technical drawing of a rectangular box. The drawing includes three views: a top view, a front view, and a side view. The top view is a rectangle with dimensions 48" MAX. (width) and 24" MIN. CLR. (height). The front view is a rectangle with dimensions 48" MAX. (width) and 24" MIN. CLR. (height). The side view is a rectangle with dimensions 24" MIN. CLR. (width) and 48" MAX. (height). The drawing also includes labels for "FRONT VIEW", "SIDE VIEW", and "TOP VIEW". The drawing is labeled "FIGURE 1" and "FIGURE 2".

DOOR SCHEDULE			
EX.	DOOR SIZE	TYPE	REMARKS
1	VARIES	VARIES	VARIES
A	2'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
B	2'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
C	8'-0" x 7'-0"	SLIPDOOR, SLIPSTEEL	WOODS
D	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
E	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
F	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
G	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
H	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
I	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
J	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
K	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
L	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
M	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
N	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
O	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
P	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
Q	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
R	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
S	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
T	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
U	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
V	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
W	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
X	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
Y	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS
Z	8'-0" x 8'-0"	SLIPDOOR, SLIPSTEEL	WOODS

WALL LEGEND

	EXISTING WALL
	PROPOSED WALL

A2.0

ARCHITECT:
STUDIO 4
3205 UCEA DRIVE
OCEANSIDE, CA 92054
ID@S 713-452-6 PM
ID@S 713-452-6 PM
P.LONGTON@GMAIL.COM
PAUL LONGTON
PRINCIPAL

PROJECT:
ALTMAN
ADDITION

OWNER:
KEN & DEENA ALTMAN

OMNIA'S REP:

2809 MESA DRIVE
OCEANSIDE, CA 92054
(760) 772-6904

ES, CD 9/7/71
EINWACHS

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

DRAWING STATUS

☐ Pure diet beverages

☐ No self payments

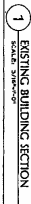
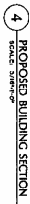
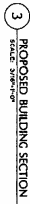
☐ Cost sharing programs

☐ Other

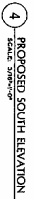
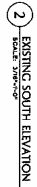
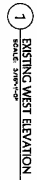
FOR INFO:
 1-800-828-8888

PL
SHEET TITLE
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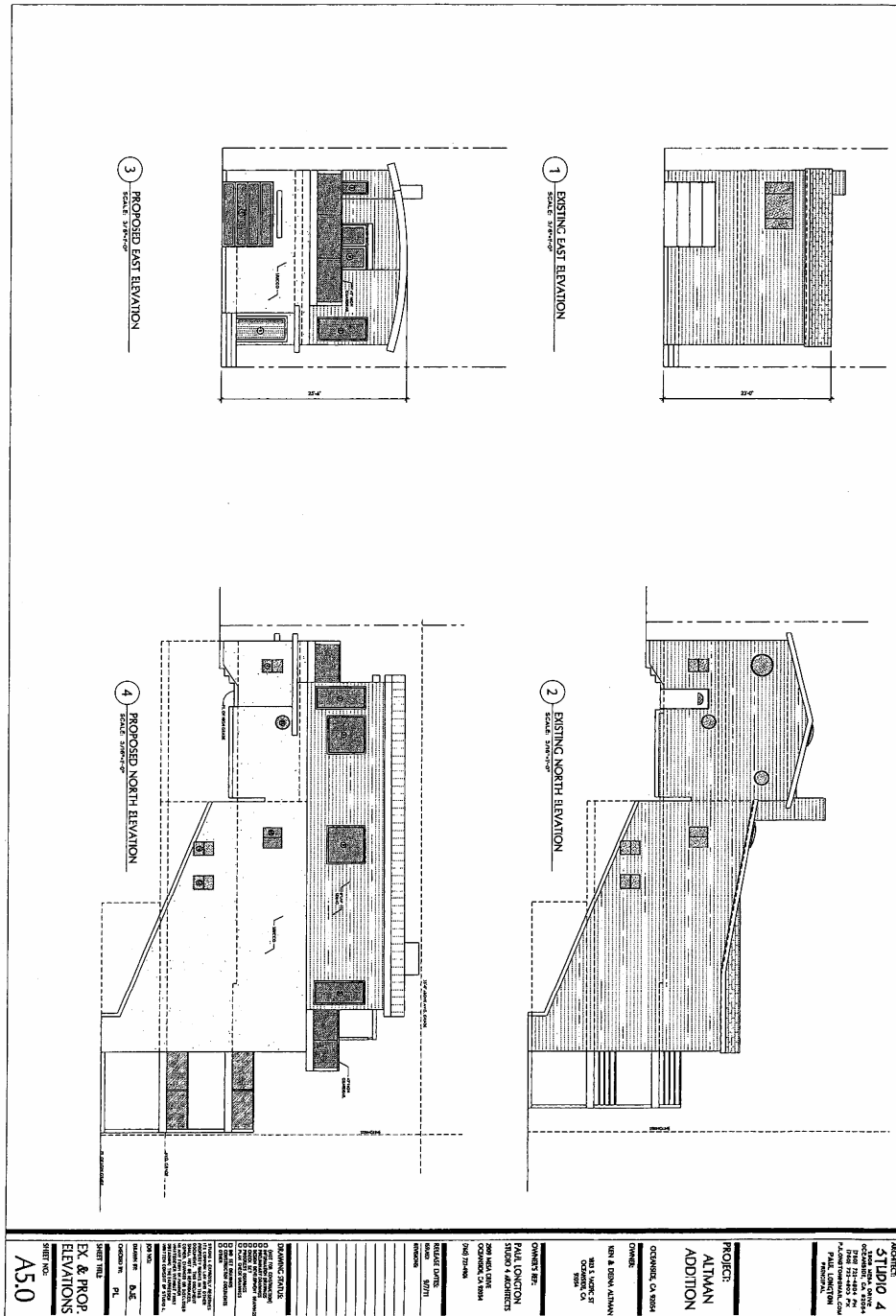
SHEET NO.:
A20



SHEET NO:
A3.0



A4.0



STATE OF CALIFORNIA -- THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4402
 VOICE (619) 767-2370 FAX (619) 767-2384



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Gregory and Dawn Swajian

Mailing Address: 1825 S. Pacific Street

City: Oceanside

Zip Code: 92054

Phone: (760) 861 0660

SECTION II. Decision Being Appealed

1. Name of local/port government:

Planning Commission - City of Oceanside

2. Brief description of development being appealed:

Approval of variance to construct to allow for a third story over a basement; raising the building height inconsistent with the adjacent residences; extending the west facing decks outside the string line; and failing to provide two enclosed parking spaces for a residence over 3,000 square feet

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

1823 S. Pacific Street, Oceanside, California

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.

RECEIVED

OCT 25 2011

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-6-OCN-11-080

DATE FILED:

10/05/11

DISTRICT:

SD COAST

EXHIBIT NO. 4
 APPLICATION NO.
A-6-OCN-11-080
 Appeal Form

Page 1 of 23

California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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: September 26, 2011

7. Local government's file number (if any): RC10-00009, V11-00004

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:

Deena Altman
1823 S. Pacific Street
Oceanside, Ca 92054

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) Dawn Swajian 1825 S. Pacific Street, Oceanside, CA 92054 please email to swajian@aol.com
Gregory Swajian 1825 S. Pacific Street, Oceanside, CA 92054 please email to swajian@aol.com

(2) Dan Matlach, 1709 South Pacific Street, Oceanside, CA 92054

(3) Marco Gonzalez, Coast Law Group LLP, 1140 South Coast Highway 101, Encinitas CA 92024

(4) Sara Honadle, Programs Director, Coastal Environmental Rights Foundation, 1140 South Coast Highway 101, Encinitas, CA 92024

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

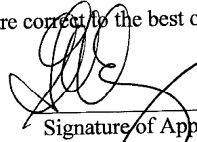
PLEASE NOTE:

- 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.

Please see Attached Documentation

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**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: October 24, 2011

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

RECEIVED

OCT 25 2011

Attachment to AppealCALIFORNIA
COASTAL COMMISSION
~~SAN DIEGO COAST DISTRICT~~

The Proposed Project by Deena Altman is being appealed because of the lengthening of two existing west facing decks 3 ½ feet into the String Line and the addition of a new west facing deck, raising of the structure approximately 4 feet (the residence is currently the tallest in the adjacent vicinity, totaling 4 liveable, habitable stories.

Oceanside's 1986 Zoning Ordinance Section 1703(e) states:

"(e)notwithstanding any other provisions of this Section, buildings or structures located on lots contiguous to the shoreline shall be compatible in scale with existing development and shall not extend further seaward than the line established on the "Stringline Setback Map," which is kept on file in the Planning Division. Appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the Stringline Setback line, provided that they do not substantially impair the views from adjoining properties."

The Altmans' Project that has been approved by the Planning Commission will lengthen two existing west facing decks by 3 ½ feet past the long-term existing Stringline Setback. Altmans' surveyor unilaterally created a new Stringline that wrongfully extends Altmans' decks west of the long-term existing Stringline and will obstruct the views of the neighbors to the north and south of their residence. Not only are they extending their decks but they are raising the height of the deck and the height of their structure which will take light and air from the neighbors to the north and south of the Altmans' residence.

City of Oceanside LCP Land Use Plan at section VI.A recites the Coastal Act policy that the visual qualities of the Coastal zone shall be protected and that new development be sited and designed to be visually compatible with the character of surrounding areas. While assessments of visual compatibility with community character are often focused on continuity of design, a measure of "compatibility" should also include whether new development significantly impairs the quality and value of some aspect of the community, including a single neighbor. The City's Land Use Plan recognizes in section VI.B.4 that the Pier is an important man-made aesthetic resource.

The City of Oceanside does not have a valid ordinance from which to implement its LCP, and therefore all Coastal Development Permits should be issued in the first instance from the Coastal Commission. When in 1988, the city passed a resolution purporting to update the zoning ordinance applicable to this portion of the Coastal Zone, it also repealed a majority of the text of the 1986 zoning ordinance, but at no time sought required Coastal Commission approval of the 1988 or 1992 actions as amendments to

the City's Local Coastal Program/Implementation Plan. The City effectively divested itself of authority to issue Coastal Development Permits, and the Coastal Commission should now be the permitting authority either under the direction of the Coastal Act, or informed by the prior-adopted 1986 ordinance. The City's failure to obtain Coastal Commission approval of repeal of its 1986 ordinance only affects the standard that should be applied by the Coastal Commission.

The City never made required findings regarding the addition of a third story over a basement, the lengthening of decks into the "Stringline Setback Line", that the height is not compatible with the surrounding neighbor, and that the on-site parking is inadequate. The erroneously based its approval on the grounds not contained in the statute.

There was no evidence to support the finding. And was that finding supported by the evidence.

There were no findings as to Section 1901 (a): special circumstances applicable to the property because of size, shape, location, topography, easements or surroundings that with strict application of the terms of the ordinance deprives such property of rights enjoyed by other properties in the vicinity of the same zoning classification.

Planning Commissioners, to create decisions with findings regarding all sections of 1901, speculated, without evidence, (as heard in the September 16, 2011, audio of the meeting) that there was a hardship. IN their rush, the Planning Commissioners wanted to know which process took less time, and continued the vote until the next meeting. The continuance provided the Planning Staff "craft" the language for the variance, without evidence, There was no evidence to support the findings pursuant to Section 1901a of the Ordinance (provided herewith).

Photos and further discussion is provided in a copy of the Powerpoint attached hereto.

CITY OF OCEANSIDE
ZONING ORDINANCE

(Includes all Amendments and/or Revisions through January, 1986)

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ARTICLE 25	-	PRD - PLANNED RESIDENTIAL DEVELOPMENT ZONE

ARTICLE 26	-	PCD - PLANNED COMMUNITY DEVELOPMENT
ARTICLE 27	-	OFF - STREET PARKING
ARTICLE 28	-	S - P - SCENIC PARK ZONE
ARTICLE 29	-	P - C - PLANNED COMMERCIAL ZONE
ARTICLE 30	-	ENACTMENT AND REPEAL
ARTICLE 31	-	RESIDENTIAL CONDOMINIUM AND STOCK COOPERATIVE CONVERSIONS
ARTICLE 32	-	R - T - RESIDENTIAL TOURIST ZONE
ARTICLE 33	-	SIGNS
ARTICLE 34	-	V - C - VISITOR - COMMERCIAL ZONE
ARTICLE 35	-	PUT - PUBLIC UTILITY AND TRANSPORTATION ZONE
ARTICLE 36	-	"H" - HARBOR ZONE
ARTICLE 37	-	S - S - SOUTH STRAND ZONE
ARTICLE 38	-	T - C - TOWN CENTER ZONE
ARTICLE 39	-	WIRELESS COMMUNICATIONS FACILITY, SATELLITE DISH AND ANTENNA STANDARDS
ARTICLE 39A	-	AMATEUR RADIO ANTENNA AND SUPPORT STRUCTURE STANDARDS
ATTACHMENT	-	AMBIGUITIES AND INTERPRETATIONS

ARTICLE 19VARIANCES

Section 1900: PURPOSE. When practical difficulties, unnecessary hardships, or results inconsistent with the general purpose of this ordinance result through the strict and literal interpretation and enforcement of the provisions hereof, the Planning Commission shall have authority, as an administrative act, subject to the provisions of this Article, to grant upon such conditions as it may determine, such variance from the provisions of this ordinance as may be in harmony with its general purpose and intent, so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done.

The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone.

Section 1901: REQUIRED SHOWINGS FOR VARIANCE. Prior to the granting of any variance it shall be shown:

- (a) That there are special circumstances applicable to the property because of size, shape, location, topography, easements, or surrounding that, with the strict application of the terms of the ordinance, deprives such property of rights enjoyed by other property in the vicinity and in the same zone classification.
- (b) That the granting of the variance will not constitute a special privilege to the property.
- (c) That the granting of the variance will not adversely affect any Specific Plan, Precise Plan, or General Plan adopted or being studied for the area.
- (d) That the granting of the variance will not be materially detrimental or injurious to the surrounding property nor to the general development pattern of the neighborhood.

Section 1902: FILING PROCEDURES, HEARINGS, NOTICES. File procedures, hearings, and notices set forth in Article 21, 2100-2123, shall apply to the processing approval or rejection of the variances.

1823 South Pacific


Planning Commission Meeting

September 19, 2011



Significant issues regarding the Proposed Project

- It is not compatible in height with the surrounding neighborhood.
- Although Oceanside is currently using the 1986 standard, Oceanside abandoned the standard it adopted in 1992 and used for 18 years, which was more consistent with other San Diego County Beach City standards. The 1992 standard was the standard reviewed by this Coastal Commission for at least two decades. No variance should be permitted for a 4 story home.
- The Proposed Project impacts the string line by extending the current structure by 3 ½ feet.
- There are direct intrusions into air and light space of neighboring dwellings and the 3rd West facing deck that is 3 ½ feet further west of any approved beach structure for decades. The Applicant's surveyor unilaterally changed the location of the "string line". The "string line" has been the standard for over 20 years for the approval of new and remodeled beach dwellings.
- The Proposed Project does not have adequate on-site parking.



Oceanside Remodels based on the 1992 guidelines

- Stay within the envelope of the current structures;
- Not add more windows to protect the privacy of neighbors;
- Not add decks west of the east side of the string line;
- Not design anything that would be “invasive” to neighbors;
- Limited decks to only “one” deck that is west facing.



- The Proposed Project is adding a third west facing deck, 3 ½ feet west of the “string line” that was the standard for over 20 years;
- The Proposed Project is at least 8 feet higher than the neighboring homes at 1821, 1825, 1827 Pacific Street;
- The Proposed Project adds square footage to create a 3,000 square foot, or more, residence on a 30 foot wide lot which goes far beyond its current “envelope” ;
- The Proposed Project does not increase the size of the one car garage to a two car garage or the size of the current garage to accommodate the actual parking of a vehicle. (the Altmans’ take up two on street parking spaces and encroach into the space of the neighbors);
- The Proposed Project is not consistent with the existing single-family homes in the neighborhood;
- Proposed Height 27.6 feet on the street level, the neighboring homes 1827 S. Pacific Street is 11 feet and 1925 S. Pacific is 19 feet;

The new, proposed addition will be approximately 5 feet higher than its height
Currently the east side measures 23'0"

Variance Request

The 1986 Zoning Ordinance states (Section 1709 (a)) that a single family home in the R-1 Zone shall not exceed a height of 35' (above average grade) or 2-stories, whichever is less.

We are requesting that the house be allowed to be built 3-stories over basement. The request does not change the allowable building height or envelope that is stated in the Zoning Ordinance.

The existing home has only two stories at any given point. However, had the original designer and builder created the house differently and had built the Lower Level to the eastern setback that existing Lower Level would be defined as basement. That would have allowed the Second Story to be built to the west edge (or String Line).

In Section 1901 (a) The special circumstances that apply to the property are the underdeveloped nature of the lower floors that prohibit the second story from being built further westward.

1901 (b) – The granting of the variance will modify the proposed residence such that its appearance and building envelope will be similar to that of neighboring houses (from the Cassidy Street beach access to the north to St Malo to the south)

1901 (c) – There would be no change to any Specific Plan, Precise Plan or General Plan with the granting of this variance.

1901 (d) – The granting of this variance would not be materially detrimental or injurious to surround property nor to the general development pattern of the neighborhood. The granting would allow the subject property to be developed to the standards of the neighborhood.

There have been two variances in the immediate neighborhood for height and numbers of stories. One variance (V-10-89) was at 1813 S Pacific St and the other (V-56-89) was at 1635 S Pacific St.

* Resolutions containing the variances are attached to this Description and Justification.

Compatibility with Neighborhood

The new, proposed addition will be approximately 27'-8" tall at the east side (Pacific Street). Currently the east side measures 23'-0" tall. The proposed construction matches the neighboring buildings in height, bulk and mass. To the



Proposed Project

- The Proposed addition will be 5 feet higher than its current height and higher than all of the neighboring dwellings;
- The Proposed addition will raise the ceiling height in the master bedroom to 11 feet;
- The bottom floor is a room with a bar, television, etc., it is not a basement;
- The second to the bottom floor are guest bedrooms;
- Street level floor is the living, dining, kitchen, small 1 car garage, not currently used by the homeowners for parking;
- Top level is a master bedroom with two decks and vaulted ceilings.

1825 S. Pacific St. is 19 feet high
The Proposed Project, 1823 S. Pacific St. will be
27.6 feet at street level
Currently it measures 23 feet high




1823 is the highest home on the
street at its current height of 23 feet.
Proposed height raises it
4 feet to 27 feet.

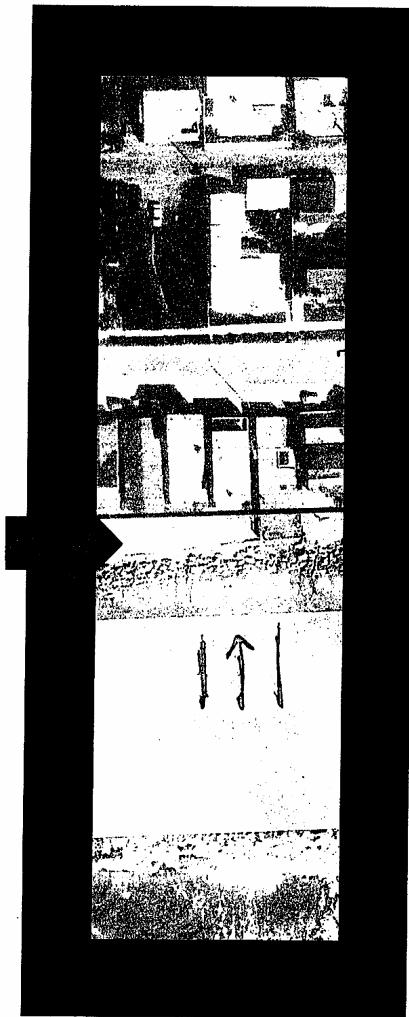


The rendering does not accurately depict that the Residence will be much higher than the neighboring residences and that the project will project further west into the string line by 3 ½ feet more than the neighboring residences.

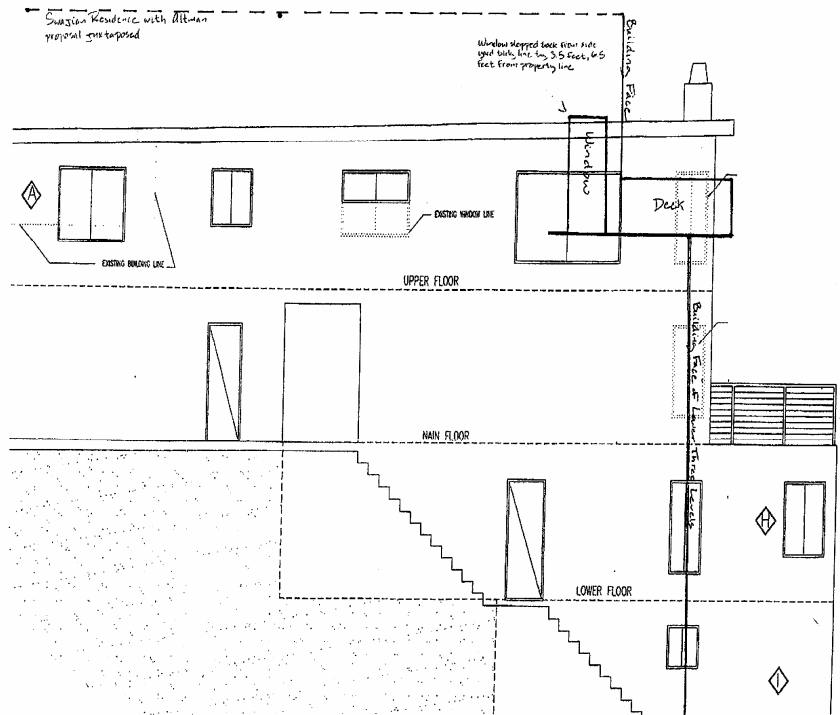




Proposed Project
will extend their decks
“3.5 feet”, based upon the
Proposed Project’s
surveyor who has
unilaterally changed the
existing string line,
applicable to all other
residences since the
1980’s.



1825 S. Pacific St. with Proposed Project, (1823 S. Pacific St.), Juxtaposed

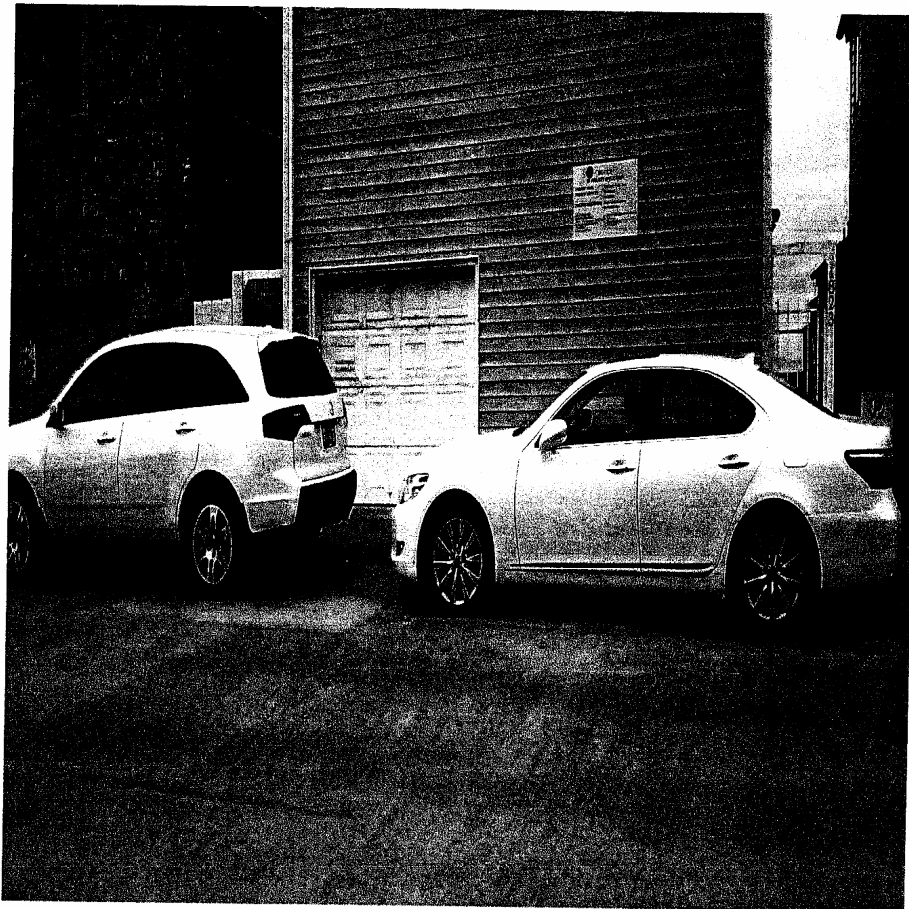


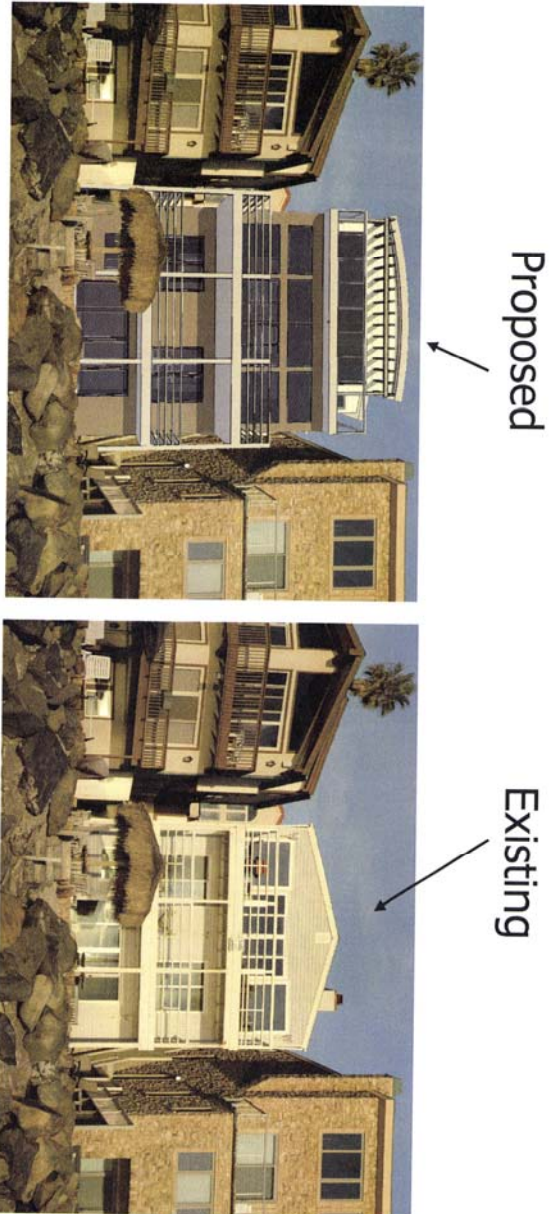


Parking?

- Is there a requirement to furnish two enclosed parking spaces for a single family residence to reduce the demand for beach access on-street parking spaces?

The applicants do ***not*** currently
use the inadequate
garage for parking.





Proposed



Existing





Traffic	Map
EXHIBIT NO. 6	
APPLICATION NO.	
A-6-OCN-11-080	
Surrounding Development	
California Coastal Commission	

David Jolly, Land Surveying
 3890 Vista Campana S. #97
 Oceanside CA 92057

Phone: 760-729-7969

Fax: 760-733-3454

E-mail: djollyls@cox.net

December 15, 2011

Ms. Toni Ross
 Coastal Program Analyst
 California Coastal Commission
 7575 Metropolitan Drive, Ste. 103
 San Diego, CA 92108-4402

RECEIVED
 DEC 20 2011

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

RE: Stringline Setback
 Altman Residence
 1823 S. Pacific Street
 Oceanside, CA 92054

Dear Ms. Ross;

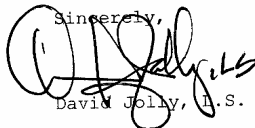
On behalf of Deena Altman and in response to your request, I have prepared the following statement describing the procedure used in establishing the location of the String Line depicted in the permit application documents for the Altman project.

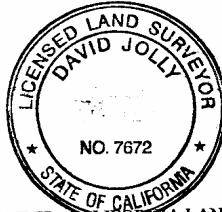
A copy of the portion of the String Line Map (Map) kept on file at the City of Oceanside Planning Department pertaining to the Altman project was acquired and examined. The Map consists of a decades old black in white aerial photograph at a presumed scale of 1' = 100' that shows the String Line location by a bold line drawn thereon.

Due to the insufficient data on the Map that would allow the establishment of the String Line location by traditional survey methods, the customary method is to scale the location of the String Line from the Map. My examination of the Map suggested that I scale the location of the String Line from westerly edge of the sidewalk on the easterly side of S. Pacific Street opposite of the Altman property that is shown quite clearly on the Map. The said edge of the sidewalk along with the physical structures on and adjacent to the Altman property was measured on the ground in my survey of the site. I then scaled the distance from said edge of sidewalk to the easterly edge of the String Line as shown on the Map and this distance was determined to be 125 feet. The conservative use of the easterly edge of the String Line was used since the width of the String Line itself as drawn on the Map scales to between 2 and 3 feet.


This statement only constitutes an expression of professional opinion regarding the facts and findings which are the subject of this statement and does not constitute a warranty of guarantee, either expressed or implied.

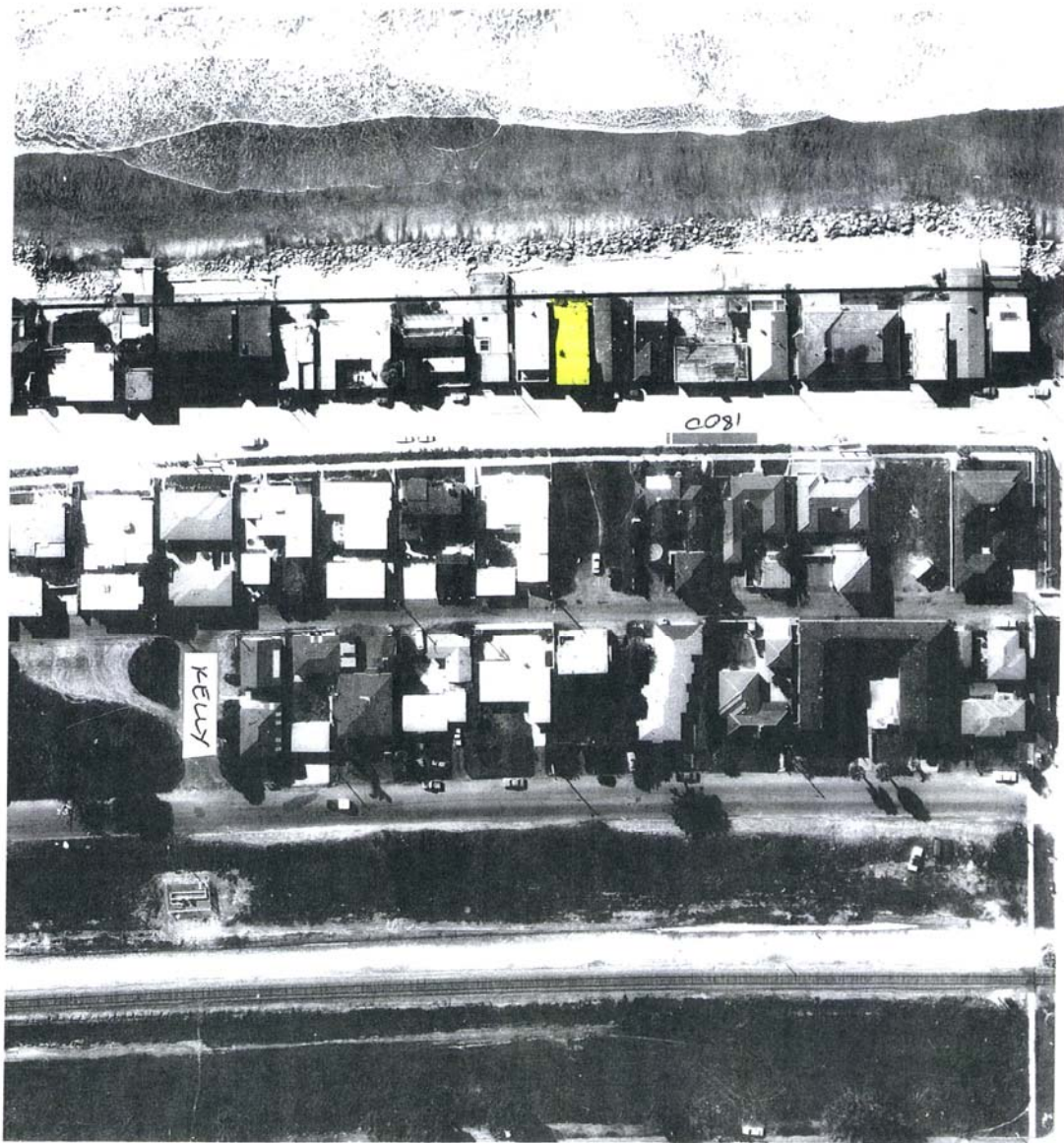
Please feel free to contact regarding and questions you may have.

Sincerely,

 David Jolly, L.S.



MEMBER: CALIFORNIA LAND SURVEYORS ASSOCIATION

EXHIBIT NO. 7
APPLICATION NO.
A-6-OCN-11-080
Stringline
Determination
 California Coastal Commission



Page 1 of 1

Toni Ross

From: Paul Longton [pjongton@gmail.com]
Sent: Wednesday, December 21, 2011 11:00 AM
To: Toni Ross
Cc: Deena Altman
Subject: Altman Res 1823 S Pacific St.

Hi Toni,

Hope your holiday season is going well and is not particularly stressful.

This email addresses various properties on the beach between 1635 S Pacific and 1947 S Pacific St (approximately 45 properties).

Of those properties that Deena Altman and I saw - there were 14 properties that appeared to have 4-levels (or 3-stories, with or without basements). All of these properties appeared newer such that they should have been required to have had a Regular Coastal permit. Of those 14 properties I was able to find information on 9 of them.

The City is able to retrieve archived projects only by an RC number, not by address.

I was able to review plans, resolutions of approval, minutes of the Planning Commission meetings and communication - all of which is included in the overall file. Of the 9 properties, 4 of them were designed as 2-stories over basement (per the '92 Zoning Ordinance), 4-had variances for height and/or stories and 1 (the appellant - Swajians) had an approval for a 3-story over basement with benefit of a variance.

The property addresses that had a variance were as follows;

- 1) - 1635 S Pacific St. (Panther Res) RC-26-89, V-56-89. This had a variance for 3-stories and a later successful appeal of a Planning Commission decision to not allow a deck beyond the string-line.
- 1 & 3) - 1717 and 1719 S Pacific St (Adcock and Bond Residences) RC-14-90, V-22-90. These were two adjoining but separate properties. The variances were for increased height and number of stories.
- 4) - 1813 S Pacific St (Bobbit Residence) - RC-2-89, V-10-89. The variance was for height increase and setback reduction.

The Swajian Res (1825 S Pacific St) RC-6-06 was the property that was approved for 3-stories over basement (and possibly a 4th-story if the beach level cannot be defined as basement - I cannot be certain because the approved plans did not have a grading plan).

I give to you the RC numbers because if you want to ask for the plans to be retrieved out of Oceanside's archives you'll need the RC numbers.

I trust this information will be useful. Let me know if I you'd like additional information.

Thank you,
 Paul

--
 Paul Longton, Architect
 760 722-4904 ph
 760 722-4903 fax

12/21/2011

EXHIBIT NO. 8
APPLICATION NO.
A-6-OCN-11-080
Correspondence with Applicant's agent
Page 1 of 2
 California Coastal Commission

Page 1 of 1

Toni Ross

From: Paul Longton [pjl@longton.com]
Sent: Wednesday, January 04, 2012 9:39 AM
To: Toni Ross
Cc: Deena Altman
Subject: Altman Residence, 1823 S Pacific St., O'Side

Hi Toni,

I spoke with Deena Altman this morning. She pointed out that in my email to you (regards the homes on the beach with and without variances) that I said the next door neighbor (Swajians at 1825 S Pacific St) were approved "with" the benefit of a variance.

I want to correct the record. 1825 was approved "without" a variance.

Sorry for the confusion,
Paul

--

Paul Longton, Architect
760 722-4904 ph
760 722-4903 fax

1/12/2012