

TH 96

CALIFORNIA COASTAL COMMISSION

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 Staff: CP-LB
 Staff Report: 5/17/96
 Hearing Date: June 11-14, 1996
 Commission Action:



CP

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE HEARING

LOCAL GOVERNMENT: City of Manhattan Beach
 DECISION: Approval with Conditions
 APPEAL NO.: A5-MHB-96-078
 APPLICANTS: Mr. & Mrs. Roger Laverty
 PROJECT LOCATION: 700 The Strand, City of Manhattan Beach, Los Angeles County.
 PROJECT DESCRIPTION: Appeal by William Victor from decision of City of Manhattan Beach granting permit with conditions to Mr. & Mrs. Roger Laverty to demolish a duplex and construct a single family residence.
 APPELLANT: William Victor

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 for the following reason: The locally approved development conforms to the City of Manhattan Beach Certified Local Coastal Program and the public access policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Manhattan Beach Certified Local Coastal Program.
2. Local Coastal Development Permit No. PC 96-5.
3. Floor plans, dated 12/12/95, submitted by City with Local Coastal Development Permit No. PC 96-5.

STAFF NOTE: On May 8, 1996, the Commission opened and continued the public hearing to determine whether a substantial issue exists with respect to the grounds on which this appeal has been filed. The hearing was continued open in order to allow additional time for the City of Manhattan Beach to forward the relevant documents and materials regarding the subject permit to the Commission's South Coast District Office in Long Beach.

I. APPELLANT'S CONTENTIONS

The City of Manhattan Beach Planning Commission and City Council approved Local Coastal Development Permit No. PC 96-5 for the demolition of a duplex and the construction of a two-story over basement single family residence on The Strand. Subsequently, William Victor submitted an appeal of the City's approval of Local Coastal Development Permit No. PC 96-5 to the Commission (Exhibit #2).

In the appeal (see Exhibit #2), the appellant William Victor contends that the size of the approved residence (i.e. maximum buildable floor area) does not conform to the limitations established by: a) the certified Local Coastal Program (LCP), specifically Sections A12.030 (development regulations), A12.030(M) (open space requirements), and A.04.030 (definitions) of the LCP implementing ordinances (LIP) (Exhibit #3); b) the goals and policies of the Coastal Act; c) the City of Manhattan Beach Land Use Plan (LUP), specifically policies 1.1 (building scale), 1.2 (building bulk), and 1.3 (building height) (Exhibit #3, p.6); and d) the City of Manhattan Beach Building Code. The appellant states that the City's approval of Local Coastal Development Permit No. PC 96-5 is inconsistent with the above stated ordinances, policies and codes because it would allow the construction of a single family residence which exceeds the maximum buildable floor area by as much as 471.59 square feet (Exhibit #2, p.2).

II. LOCAL GOVERNMENT ACTION

The applicants submitted an application for a Local Coastal Development Permit to the City of Manhattan Beach Community Development Department in January of 1996. The City classified the proposed single family residence as a "minor development" and sent public notice of a proposed public hearing waiver pursuant to the provisions of AB 1303. A request for hearing was received by the City and a public hearing was scheduled before the City Planning Commission on February 28, 1996.

On February 28, 1996, the Planning Commission approved the Local Coastal Development Permit for the proposed single family residence and adopted Resolution No. PC 96-5 (Exhibit #4). [The Local Coastal Development Permit is herein referred to as Local Coastal Development Permit No. PC 96-5]. On March

19, 1996, the Planning Commission's action was transmitted to the City Council on the Consent Calendar where the City Council confirmed the decision of the Planning Commission. No appeal was filed during the thirty day period in which the Planning Commission's action could be appealed to the City Council.

On April 1, 1996, after the local government's thirty day appeal period ended without an appeal, the Commission received the Notice of Final Local Action for the Local Coastal Development Permit (Exhibit #4). The Commission's ten working day appeal period was then established and noticed. On April 15, 1996, the last day of the appeal period, the Commission received the appeal from William Victor (Exhibit #2).

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 three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Under Section 30603(a)(1) of the Coastal Act, the proposed project site is located in an appealable area by its location within three hundred feet of the inland extent of the beach.

Section 30603(a)(1) of the Coastal Act states:

- (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 greatest distance.

The grounds for appeal of an approved local Coastal Development Permit 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 a de novo hearing of 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 will 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 three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion 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. The Commission will then 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.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that no substantial issue exists with respect to the conformity of the project with the City of Manhattan Beach certified Local Coastal Program and the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

MOTION. Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A5-MHB-96-078 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The applicants propose to demolish an existing two-story duplex located at 700 The Strand and construct a new single family residence. The Strand is the public pedestrian boardwalk and bicycle path which runs in front of the site and other beachfront residences in Manhattan Beach (Exhibit #1). The proposed single family residence, as described in the City staff report dated February 28, 1996 (Exhibit #5), is a 33 foot high, three-story structure with an attached three-car garage and 5,489 square feet of floor area. According to the City, the proposed project meets all applicable building standards for the 3,496 square foot RM (Medium Density Residential) zoned lot in Area District III.

B. 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 LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

The appellant contends that the proposed residence exceeds the maximum buildable floor area limitation contained in Section A.12.030 of the certified LCP. He states that the proposed residence exceeds the maximum buildable floor area by 471.59 square feet (Exhibit #2, p.2). The appellant also states that the proposed residence may not provide the required 350 square feet of usable open space required by Section A.12.030(M) of the certified LCP (Exhibit #2, p.3).

In this case, the Commission must decide whether the proposed residence conforms to the maximum buildable floor area limitation and usable open space requirement for the site contained in Section A.12.030 of the certified LCP (Exhibit #3). Staff has recommended that the Commission find that no substantial issue exists because the locally approved project conforms to the certified LCP and the public access policies of the Coastal Act.

Section A.12.030 of the certified LCP limits the maximum buildable floor area of structures in the coastal zone. Section A.12.030(I) of the certified LCP states how the maximum buildable floor area for a lot is calculated (Exhibit #3, p.3). The proposed residence is located on a 3,496 square foot lot in the RM (Medium Density Residential) zone in Area District III. Pursuant to Section A.12.030 of the certified LCP, the maximum buildable floor area for structures located in the RM (Medium Density Residential) zone in Area District III is 1.6 of the total lot area (Exhibit #3, p.1). Therefore, as

calculated by Commission staff, the maximum buildable floor area for the 3,496 square foot lot is 5,593.6 square feet ($3,496 \times 1.6 = 5,593.6$). The City staff report dated February 28, 1996, also states that the maximum buildable floor area for the 3,496 square foot lot is 5,593.6 square feet (Exhibit #5, p.3). William Victor's appeal contains a similar but different calculation of 5,592.98 square feet of maximum buildable floor area for the lot (Exhibit #2, p.2).

The definition of buildable floor area is contained in Section A.04.030 of the certified LCP (Exhibit #3, p.6). The buildable floor area is the enclosed floor area of a structure measured within the outside of the structure's exterior walls, without counting the limited areas which are excepted by the definition. Unenclosed areas like decks and patios are not included in the buildable floor area. For lots larger than 2,700 square feet in Area District III, up to 600 square feet of the garage is excluded from the buildable floor area calculation.

In addition, the definition of buildable floor area contained in the certified LCP states that all enclosed portions of the basement which are not located entirely below local grade are counted towards the maximum buildable floor area (Exhibit #3, p.6). In this case, no portion of the proposed residence is located entirely below local grade.

The City staff report dated February 28, 1996, states that the proposed residence contains 5,489 square feet of buildable floor area, less than the 5,593.6 square foot maximum permitted by the certified LCP (Exhibit #5, p.3). William Victor's appeal disputes the City's finding and states that the proposed residence contains 6,064.57 square feet of buildable floor area, 471.59 or 470.97 square feet over the maximum buildable floor area permitted by the certified LCP, depending on whose maximum figure is used (Exhibit #2, p.2).

In order to determine whether a substantial issue exists with regards to the appeal, Commission staff calculated the buildable floor area of the proposed project using floor plans dated December 12, 1995 which were submitted by the City as part of the local permit file. The Commission staff's buildable floor area calculations are based on the standards and definitions contained in Sections A.12.030 and A.04.030 of the certified LCP (Exhibit #3). The floor areas of each of the three floors were measured within the outside of the exterior walls. No unenclosed decks or patios were included in the buildable floor area calculations, and 600 square feet was subtracted from the enclosed vehicle parking area (garage). The area of the stairs and the elevator shaft was only counted once, on the basement level. Because no portion of the proposed basement is located entirely below local grade, the staff's buildable floor area calculations include the total area of the basement level.

The Commission staff's buildable floor area calculation:

Basement level:	2,041.25 sq. ft.
Middle level:	1,605.50 sq. ft.
Top level:	<u>2,050.40 sq. ft.</u>
Total:	5,697.15 sq. ft.

The Commission staff's buildable floor area calculation for the proposed project is 5,697.15 square feet, 103.55 square feet over the maximum of 5,593.6 square feet.

The Commission staff's buildable floor area calculation is different from both the City's and the appellant's calculations. The City believes that the difference between the City's buildable floor area calculation of 5,489 square feet and the appellant's calculation of 6,064.57 is the result of different interpretations of the buildable floor area definition and the methods used to calculate the buildable floor area. The City's memorandum dated March 28, 1996, states that the appellant may have inaccurately calculated floor area dimensions and included areas which are not buildable floor areas as defined by Section A.04.030 of the certified LCP (Exhibit #6, p.2).

It is easy to understand how the calculations of the buildable floor area for the proposed project can result in different figures. It is not easy to interpret the requirements and definitions of the certified LCP, and it is equally difficult to measure the precise floor areas on the small scale plans where .25" equals one foot.

In any case, the issue of whether the proposed project conforms exactly to the maximum buildable floor area limits of the certified LCP will have no effect on coastal access or coastal resources. The proposed single family residence is replacing a more intense use, a duplex, and conforms to the height limit and setback requirements of the certified LCP. The fact that the proposed residence exceeds the buildable floor area limit by 103.55 square feet is not a substantial issue - 103.55 square feet is an insignificant amount which will not affect coastal access or coastal resources.

The difference between the City's and the Commission staff's buildable floor area calculations differ by about two square feet. The Commission finds that the City's interpretation of the requirements and definitions of the certified LCP is not inconsistent with the certified LCP, and that the City's approval of the proposed project raises no substantial issue with regards to the certified LCP or the public access policies of the Coastal Act.

In addition, the appellant also states that the proposed residence may not provide the required 350 square feet of usable open space required by Section A.12.030(M) of the certified LCP (Exhibit #2, p.3). Commission staff confirmed that the plans for the proposed project do provide the open space areas listed in the City's February 28, 1996 staff report (Exhibit #5, p.4).

Therefore, staff recommends that the Commission find that no substantial issue exists with the approval of Local Coastal Development Permit No. PC 96-5 on the grounds that the proposed project conforms to the City of Manhattan Beach certified Local Coastal Program and the coastal access policies of the Coastal Act.

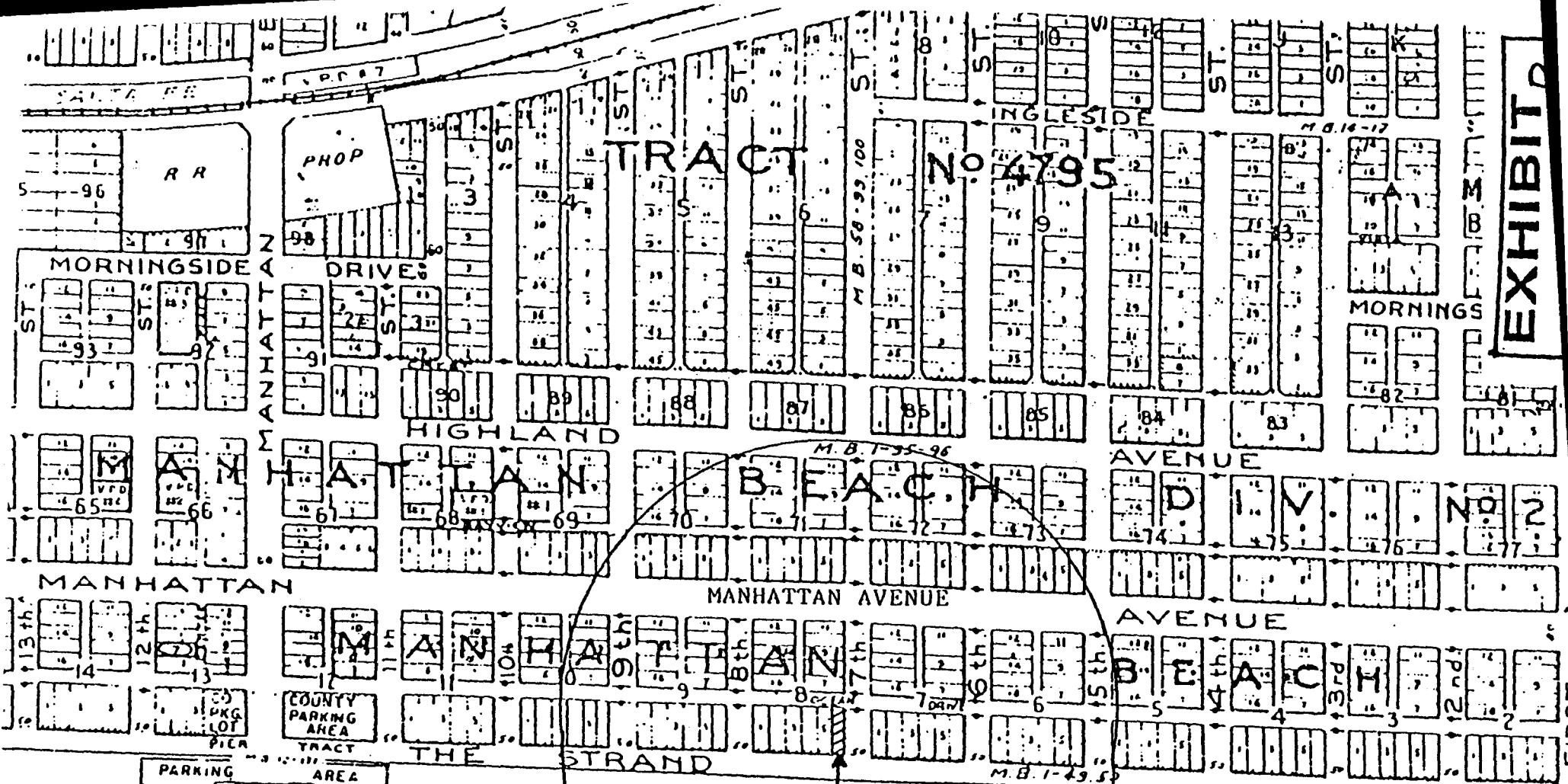


Site
700 The Strand

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EXHIBIT



SUBJECT SITE 700 The Strand

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CONDOMINIUM SUBDIVISION

1	32026	C-4
2	31976	D-4
3	29402	C-5
4	31999	C-5
5	31996	G-5

A N

ATTACHMENT TO APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

This appeal is brought because the City of Manhattan Beach has with respect to this development violated inter alia (i) the Certified Local Coastal Program, including but not limited to Section A 12.030, A 12.030 (M), A .04.030 , (ii) the Goals and Policies of the Coastal Act , (iii) The City of Manhattan Beach General Plan at page LU-14, namely policies 1.1, 1.2, and 1.3 relating to height, reduction of size, reduction of bulk, and (iv) Manhattan Beach Building Code which again specifies the standards to be complied with to satisfy the Certified Local Coastal Program requirements.

This appellant respectfully reserves his right to submit additional information to the Staff and/or Commission to support this appeal request but notes for example, the Certified local coastal program, Section A 12.030 relating to maximum buildable floor area in District III of the City of Manhattan Beach (hereinafter "City") sets 5592.98 sq. feet as the maximum buildable area based upon the size of this lot. The City planning department representative states that it does not measure the square footage but admits that the square footage represented by applicant as 5489 sq. feet is erroneous and in fact exceeds 5500 but did not specify any figure to the Planning Commission or the City Council, and that same representative misrepresented to the Planning Commission and the Council (a) the figures this appellant made were not shown to the Planning Department prior to the Planning Commission meeting on or before February 28, 1996 and (b) further misrepresented to the Planning Commission and Council that the figures in the Plans were "accurate and correct". This "Planning Division Intern" was shown my calculations of the square footage on February 28 but indicated he was not interested in reviewing them. On February 27 ~~he~~ at a meeting with this appellant he indicated that the applicant's floor area measurements were correct; during the day of February 28, 1996 this Planning Division Intern said he found notes that he made over a month before that indicated that the floor area set forth by the architect were erroneous; this appellant then calculated the floor area that afternoon from the plans and showed the figures to the Planning Division Intern and one other member of the planning department. The Planning Division Intern stated that he was not interested in reviewing them. The Planning Division Intern then testified that evening of February 28 at the Planning Commission that he was never shown this appellant's calculations. However, he did admit that there were errors in figures used by applicant in the plans but did not indicate what the corrected figures were or what the errors were.; he commented to the effect that he believed whenever they were computed he thought that the figures would most likely be in compliance "conceptually" with the certified local coastal program.

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This Planning Division Intern further stated to me that "it is up to the Building Division to check square footage figures". The Representative of the City Building Division, a Mr. Groverman, stated to this applicant that the only floor area figure checked by his division is the gross area and not the "habitable" or "buildable" floor areas as required by the formulas and definitions required under the certified local coastal program ("CLCP") (Please see Sec.A.040.030 page 4-5 CLPC). The Building Division, Mr. Groverman explained, calculated gross footage primarily for checking that the correct City permit fees are collected.

The most recent plans up to the final hearing by the City Council, found on March 19, 1996 by Mr. Groverman, after the Planning Commission hearings and only a few hours before the City Council had it on its March 19 agenda, were neither reviewed by the Planning Division, the Planning Division Intern, the Planning Administrator, or the Community Development Director. The representative of the Building Division, Mr. Groverman, indicated that he had never seen these plans before that date and was unable to answer the questions that I had, but it still did have the errors in floor area measurement which were on the earlier plans. The Planning Division Intern stated that these plans had never been received by the City even the morning of March 19 and on the afternoon of March 19, 1996 when he first indicated that he saw them, he did not believe that these plans had complied as of that date with planning division list(s) of corrections (which did not even address these errors of floor area measurement compliance).

The Community Development Director did not misrepresent everything in a report later ordered by the Council but certainly did misrepresent and deceive the City Council by stating in March that ". . . the calculations presented to the Planning Commission are accurate and correct". The only calculations presented at either hearing were those by this appellant and those (admitted as inaccurate by the Planning Division Intern) from the project applicant's plans which were the only plans used for purposes of this approval.

Calculations of the floor areas for purposes of computing maximum allowable floor area under the certified local coastal plan and the ordinances incorporated therein indicate the following measurements:

2255.7 square feet	=	Basement level(after adding 50 per cent of the area erroneously excluded by applicant's architect.
1761.00 sq. feet	=	main floor
2047.37 sq.ft.	=	top floor
6064.57	=	Total
- 5592.98	=	Maximum allowed per CLCP
471.59	=	Excess over maximum allowable floor area

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The change in the top floor could also cause there not to be sufficient open space to satisfy the required minimum under the CLCP and incorporated ordinances. Appellant does not have sufficient information from these plans which have uncorrected errors. The Community Development Director and Planning Administrator would prefer that the Council believe that the "likely" reason for the lack of agreement with Staff's interpretation of Code Provisions is the reason for the difference in calculations; this is false since at the most, "interpretation" issues only involve the exclusion of one planter and exclusion of some elevator shafts, a total of less than 60 square feet. There is still more than 400 square feet in excess of the mandatory maximum floor area under the CLCP, incorporated ordinances, and General Plan. The Community Development Department's failure to even have reviewed the most recent plans and its failure to present corrected figures to the Planning Commission and City Council appears to subvert the purpose of determining whether or not the development conforms to the standards set forth in the certified local coastal program. What also appears to be the case is that the City has no procedure in place to check the floor area of such coastal developments as the instant one since each of the two divisions of community development department claim it is the duty of the other to check this computation and neither does in fact check such compliance. Neither are complying with the definition of Buildable Floor Area as defined in Section A 04.030 of the CLCP. For example, apparently, the City has amended this definition without applying to the Coastal Commission for this change in the CLCP. The City does not include "... the floor area of any habitable room on a basement level" in the determination of buildable area. Instead it includes only 50 per cent of certain of those rooms. Also exclusion in Area District III set forth in Section A.040.030 page 4-5 is different from the City which, I have been informed, also excludes storage areas in addition to parking and loading. Additionally, the definition of Open Space, Usable, at page 4-9 of Section A.04.030 of the CLCP appears to vary from the definition being applied by the City according to an explanation received from the Planning Division Intern.

Accordingly, in accordance with Public Resources Code Section 30603 (a) (1) and (b) (1), it is respectfully requested that this appeal be granted on the grounds that this development as noted above and as to be supplemented does not conform to the standards set forth in the certified local coastal program. Further, more importantly, there is no procedure in place to check and then enforce compliance with this important element and policy under the CLCP and CLCP Section A 12.030 (1) and (M,) Sections A. 96.070 and A. 96.120, the City's General Plan Goals and Policies, that is Policies 1.1, 1.2 and 1.3 of the Manhattan Beach General Plan, A. 96.120- has not been complied with,

This appellant intends to supply additional information to the staff and commission to support this appeal request as is suggested by the procedure set forth in the appeal form at page three. Additional information will include the specific citations of the General Plan.

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A.12.030. Property development regulations: RM and RH districts.

The following schedule prescribes development regulations for residential zoning districts in each Area District, as defined in Section A.01.060(A)(2) and designated on the zoning map. The columns establish basic requirements for permitted and conditional uses; letters in parentheses in the "Additional Regulations" column refer to "Additional Development Regulations" following the schedule.

PROPERTY DEVELOPMENT STANDARDS FOR AREA DISTRICTS III AND IV

	Area District III		Area District IV	Additional Regulations
	RM	RH	RH	
Minimum Lot Dimensions				
Area (sq. ft.)	2,700	2,700	2,700	(A) (B) (C) (J)
Width (ft.)	30	30	30	
Minimum Setbacks				(R)
Front (ft.)	5	5	5	(A) (B) (D)
Side (ft.)	3	3	3	(D) (E) (F)
Corner Side (ft.)	1	1	1	(D) (E)
Rear (ft.)	5	5	5	(D) (E) (F) (G)
Maximum Height of Structures (ft.)	30	30	30	(H) (P)
Maximum Buildable Floor Area Lot Area (Sq.Ft.)	1.8	1.7	1.7	(I)
Minimum Lot Area per Dwelling Unit (sq.ft.)	1,350	850	850	(J) (K)

700 The Strand

PROPERTY DEVELOPMENT STANDARDS FOR BOTH AREA DISTRICTS

		Additional Regulations
★ Minimum Usable Open Space		(M)
Required Landscaping Adjoining Streets		(O)
Fences and Walls		(P)
Off-Street Parking and Loading	See Chapter A.84.	(Q)
Underground Utilities	See Section A.80.110.	
Refuse Storage Areas	See Section A.80.100.	
Outdoor Facilities	See Section A.80.080.	
Screening of Mechanical Equipment	See Section A.80.090.	
Solar-assisted Water Heating	See Section A.80.140.	
Performance Standards	See Section A.80.120.	
Nonconforming Structures	See Chapter A.88.	
Signs	See Chapter A.72.	

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**RM and RH DISTRICTS:
Additional Development Regulations**

- (A) See Section A.60.020: Development on substandard lots.
- (B) See Section A.60.030: Development on lots divided by district boundaries.
- (C) The minimum site area shall be 12,000 square feet for General Day Care, General Residential Care, and Public or Private Schools.
- (D) Permitted Projections into Required Yards.
See Section A.60.040: Building projections into yards.
- (E) Side Setback: Ten percent of lot width but not less than 3 feet and need not exceed 5 feet.
- (F) Building Height and Required Yards. Except as provided below, the width of a required interior side or rear yard adjoining a building wall exceeding 25 feet in height, excluding any portion of a roof, shall be increased three feet over the basic requirement.
 - (1) Exceptions. If the lot width is less than 45 feet, no increase in the side yard is required.
- (G) Rear Alley Setback Exceptions:
Area Districts III and IV: The width of a required rear yard adjoining an alley may be reduced to 2 feet at height elevations not less than 8 feet above the street grade at the rear property line. See Section A.64.110; Aisle Dimensions.
- (H) See Section A.60.050 Measurement of height, and Section A.60.060 Exceptions to height limits. The maximum number of stories permitted shall be 3 where the height limit is 30 feet and 2 where the height limit is 26 feet. If the elevation of a deck is above the floor level of the second story where the height limit is 26 feet or above the floor level of the third story where the height limit is 30 feet, no portion of such deck shall exceed the height limit, the floor of such deck shall not be within 6 feet of the height limit, and access to such deck shall be provided directly from interior living space without a change in level. Whenever new construction or alterations and additions to existing structures involves grading or scraping, a survey acceptable to the Director of Community Development is required as a condition of issuance of a demolition or building permit (see Section A.80.010). The Director shall require that survey markers be set.

The Community Development Director shall determine compliance with this subsection by reviewing two vertical cross-sections through the property (front-to back and side-to-side) that show the relationship of each level in a new structure and new levels added to an existing structure to both existing and finished grade on the property and adjacent land within 5 feet of the property line.

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★ (I)

Maximum Buildable Floor Area. The maximum buildable floor area on a lot shall be determined by multiplying the lot area times the Floor Area Factor (FAF) shown in the table. If the lot area is equal to, or greater than, a certain threshold in certain zoning districts, then a base floor area in square feet is noted in the table and the additional floor area is calculated by multiplying the appropriate FAF times the lot area. Certain space is not included in the definition of buildable floor area; see Chapter A.04.

(J) In Area District IV two units are permitted on preexisting, legal half-lots with a minimum site area of 1,350 square feet.

(K) Condominium Standards.

(1) All residential condominiums (new construction or conversion) located in Area Districts III and IV shall have vehicular access from both the front and the rear property lines from dedicated public streets or alleys improved and open to vehicular use.

(a) Exception: Properties on the Strand.

(b) Exception: Where a building site (consisting of a lot or portions of a lot) exists on March 6, 1989, and (1) neither the front nor the rear of the site is adjacent to a "walk street" and (2) the building site has access from two or more property lines from dedicated public streets or alleys improved and open to vehicular use. The building site shall be deemed to be a condominium site. This exception does not apply in Area District IV.

(c) Exception:

(1) Where a building site that is zoned RH is adjacent to a "walk street" and has vehicular access from 2 or more property lines from dedicated streets or alleys improved and open to vehicular use, said building site shall be deemed to be a condominium site, with a maximum of 2 dwelling units.

(2) All residential condominiums (new construction and conversion) shall construct all utility lines underground, including but not limited to telephone, power, and cable television, to the nearest power source subject to approval of the Community Development Department, Public Works Department, and appropriate utility companies.

(3) Other standards applicable to residential condominiums are in Section A.52.110.

(L) (Reserved)

★ (M)

Open Space Requirement. The minimum usable open space (private and shared) in RM and RH Districts shall be provided as follows:

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(M) (1) For single family dwellings in Area District III and IV and multifamily dwelling units in both districts, containing 2,333 square feet or less of buildable floor area, the minimum requirement is 15 percent of the buildable floor area per unit, but not less than 220 square feet.

☆ (2) 700 The Strand
For single family dwellings in Area Districts III and IV and multifamily dwelling units in both districts, containing greater than 2,333 square feet of buildable floor area, the minimum requirement is 350 square feet per dwelling unit.

(3) The amount of a dwelling unit's required open space located above the second story shall not exceed the proportion of the unit's total Buildable Floor Area which is located at the same level or story (where permitted by height regulations).

(4) Where new buildable floor area is added to an existing dwelling unit located in Area District III or IV, additional usable open space shall be provided equal to 15% of the added buildable floor area, until the total open space requirement provided in this Section is attained.

(N) (Reserved)

(O) Required Landscaping Adjoining Streets. At least 20 percent of all visible portions of a required front or corner side yard adjoining a street shall be a planting area.

(a) Exceptions for Area Districts III and IV. The Community Development Director may grant an exception for a portion of the amount of required landscaping, not to exceed 75 percent of the total, in order to accommodate driveways and walkways.

(P) Fences and Walls. The maximum height of a fence or wall shall be 6 feet except in required front yards abutting a street where the maximum height shall be 42 inches. In addition, all fences and walls shall be subject to the driveway visibility requirements of Section A.64.150.

Where a retaining wall protects a cut below existing grade or contains a fill above the existing grade and is located on the line separating lots, such retaining wall may be topped by a fence wall or hedge with the maximum total not to exceed 6 feet.

A fence having additional height shall be permitted on the sides of any lot wherever a 6 foot fence is allowed, provided such additional height over 6 feet slopes inward at an angle of not less than 30 degrees and no more than 45 degrees from vertical, and provided, further, that such additional portion shall not make the total height of the fence more than 8 feet from the ground and shall not extend closer to any part of any building than a distance equal to one-half of the width of the required side yard on the lot.

(Q) Parking on Street-Alley Lots.

(1) Semi-Circular Driveways. Semi-circular driveways are permitted on lots with widths of 80 feet or more, subject to the following standards:

- (a) No more than 50 percent of the front setback area shall be paved, and visible landscaping shall be installed between the driveway and the sidewalk.
 - (b) The semi-circular driveway does not have to provide access to the garage.
- (R) The minimum distance between buildings containing one or more dwelling units on a site shall be 10 feet.

COASTAL COMMISSION



Floor Area, Buildable: The total enclosed area of all floors of a building measured to the outside face of the structural members in exterior walls, and including halls and the area of the stairs, but excluding floor area under stairs and those portions of a basement that are entirely below local grade. The floor area in any habitable room on a basement level shall be included in the determination of buildable floor area. The following elements also are excluded from a determination of buildable floor area:

Commercial and Industrial Districts: That area used exclusively for vehicle parking and loading and in service and mechanical rooms, enclosed vertical shafts, or elevators.

Single-family Residential Districts:

Area Districts III and IV: That area used for vehicle parking and loading, up to 400 square feet on lots with less than 2,700 square feet and up to 600 square feet on lots with 2,700 square feet or more.

Multi-family Residential Districts: That area used exclusively for vehicle parking and loading.

Floor Area Factor (FAF): The factor utilized in determining buildable floor area.

General Plan: The City of Manhattan Beach General Plan, as amended.

Grade, Existing: The surface of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project regulated by this title.

Grade, Ground Level Finished: The average of the finished ground level at the exterior perimeter of all walls of a building. In cases where walls are parallel to and within five feet of a front or corner side property line, the ground level shall be measured at the property line.

Grade, Local: The ground elevation adjacent to a specified location on the exterior of a building (existing or finished, whichever is lower). It is to be taken as the lowest point on a line between the location specified and the nearest property line if the property line is within 5 feet of the building, or, if not, between the building and a point 5 feet outward from the building. For purposes of determining height above or below grade for a specified location on a building not on its perimeter, the local grade shall be considered to be the local grade corresponding to the nearest perimeter location.

Grade, Street: The top of the curb, or the top of the edge of the pavement or traveled way where no curb exists.

COASTAL COMMISSION

Open Space, Total: The sum of private open space and shared open space.

★ Open Space, Usable: Outdoor or unenclosed area on the ground, or on a balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but excluding parking facilities, driveways, utility or service areas, or any required front or side yards, and excluding any space with a dimension of less than 5 feet in any direction or an area of less than 48 square feet.

Opposite: Walls, windows, signs, districts, or property lines shall be deemed opposite if a line perpendicular to a vertical plane through one element and having its widest horizontal dimension would intersect a similar vertical plane through another element.

Outdoor Living Area: (See Open Space, Usable).

Parking Structure: An enclosed or semi-enclosed area containing a ceiling or roof, used primarily for the temporary storage of motor vehicles, constructed either above or below grade, freestanding, or as part of a nonresidential building.

Permitted: Permitted without a requirement for approval of a use permit or temporary use permit.

Porch: A covered or uncovered platform at an entrance to a dwelling unit.

Pre-existing: In existence prior to the effective date of this title.

Project: Any proposal for new or changed use, or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this title.

Proscenium, Garage: The structural frame of a garage door.

★ Room, Habitable: A room meeting the requirements of the Building Regulations (Title 9, Chapter 80 of the Municipal Code) for sleeping, living, cooking, or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, utility rooms, garages, and similar spaces.

Setback Line: A line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear yard, or the boundary of any public right-of-way whether acquired in fee, easement or otherwise, or a line otherwise established to govern the location of buildings, structures or uses. Where no minimum front, side or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

Sexual Activities, Specified: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, oral copulation, or sodomy; fondling or other erotic touching of human genitals (pubic region), buttocks, or female breasts.

Single Ownership: Holding record title, possession under a contract to purchase, or possession under a lease, by a person, firm, corporation, or partnership, individually, jointly, in common, or in any other manner where the property is or will be under unitary or unified control.

COASTAL COMMISSION

A. Commercial Development

- Policy II.A.2:** Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.
- Policy II.A.3:** Encourage the maintenance of commercial area orientation to the pedestrian.
- Policy II.A.4:** Discourage commercial lot consolidations of greater than two standard city lots.
- Policy II.A.5:** Commercial development eligible to participate in off site parking and in lieu fee parking programs under Sections A.64.050 and A.64.060 of Chapter 2 of the Implementation Plan shall participate only if parking spaces required by Section A.64 of Chapter 2 of the Implementation Plan do not exceed the available parking supply.
- Policy II.A.6:** Encourage development of adequate parking facilities for future development through ground level on-site parking or a requirement to pay the actual cost of constructing sufficient parking spaces. Maximize use of existing parking facilities to meet the needs of commercial uses and coastal access.
- Policy II.A.7:** Permit mixed residential/commercial uses on available, suitable commercial sites.



B. Residential Development

- Policy II.B.1:** Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.
- Policy II.B.2:** Maintain residential building bulk control established by development standards in Chapter 2 of the Implementation Plan.
- Policy II.B.3:** Maintain Coastal Zone residential height limit not to exceed 30' as required by Sections A.04.030 and A.60.050 of Chapter 2 of the Implementation Plan.
- Policy II.B.4:** The beach shall be preserved for public beach recreation. No permanent structures, with the exception of bikeways, walkways, and restrooms shall be permitted on the beach.
- Policy II.B.5:** Development of the former Metlox site shall provide the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site.

COASTAL COMMISSION



CITY HALL
TELEPHONE (310) 545-5621

1400 HIGHLAND AVENUE

FAX (310) 545-5234

MANHATTAN BEACH, CALIFORNIA 90266-4795
TDD (310) 546-3501

March 29, 1996

RECEIVED

APR 1 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Ms. Pam Emerson
California Coastal Commission
South Coast Area
P.O. Box 1450
Long Beach, CA. 90802-4416

RE: NOTICE OF FINAL GOVERNMENT ACTION / 700 THE STRAND

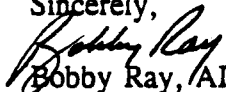
Dear Ms. Emerson,

In compliance with the requirements of Section A.96.100 D of the City of Manhattan Beach Local Coastal Program, you are hereby notified of the final local decision regarding the Coastal Development Permit for the above reference project. The proposal involves construction of a new single-family dwelling, which will replace an existing duplex located at the subject address. The project has been classified as a "minor development" and, as such, is subject to the provisions of AB 1303.

Public notification was made with regards to the subject project, and the proposed public hearing waiver. A request for hearing was received, and a hearing was held before the Planning Commission on February 28, 1996. At this hearing the Commission voted unanimously (4-0, 1 absent) to approve the issuance of the Coastal Development Permit, and adopted Resolution No. PC 96-5. A copy of adopting Resolution, outlining the findings and conditions of approval, is attached for your reference.

Should you need further clarification, please feel free to contact the undersigned.

Sincerely,


Bobby Ray, AICP
Senior Planner

cc: Mr. and Mrs. Roger Laverty, Property Owner
310 Sixteenth Street
Manhattan Beach, CA. 90266

COASTAL COMMISSION
A5-MHB-96-078

EXHIBIT # 4

PAGE 1 OF 3

RESOLUTION NO. PC 96-5

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT FOR A NEW SINGLE-FAMILY DWELLING, WHICH WOULD REPLACE AN EXISTING DUPLEX, ON THE PROPERTY LOCATED AT 700 THE STRAND (Laverty)

WHEREAS, the Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law to consider application for a Coastal Development Permit to allow construction of single family dwelling on the property legally described as Lot 6, Block 8, of the Manhattan Beach Tract, located at 700 The Strand in the City of Manhattan Beach; and,

WHEREAS, the applicants for said Coastal Development Permit are Mr. and Mrs. Roger Laverty, owners of the subject property; and,

WHEREAS, the Planning Commission held a noticed public hearing on February 8, 1996; and,

WHEREAS, said public hearing was advertised pursuant to applicable law, testimony was invited and received; and,

WHEREAS, a Categorical Exemption was filed in compliance with the provisions of the California Environmental Quality Act (CEQA) as modified by the City of Manhattan Beach CEQA Guidelines; and,

WHEREAS, the Planning Commission made the following findings with regard to this application:

1. The applicant requests approval of a Coastal Development Permit to construct a single family dwelling for the property located at 700 The Strand.
2. The property is located within Area District III (Beach Area) and is zoned RM, Medium Density Residential. The surrounding land uses consist of RM "Medium Density Residential" to the north, south, and east; and, OS "Open Space" to the west.
3. The General Plan designation for the property is Medium Density Residential, and the Local Coastal Program/Land Use Plan designation is Medium Density Residential.
4. The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. B. 1, 2, & 3, as follows:
 - II.B.1: The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program-Implementation Plan;
 - II.B.2: The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program-Implementation Plan;
 - II.B.3: The proposed structure is consistent with the 30' Coastal Zone residential height limit as required by the Local Coastal Program-Implementation Plan.

COASTAL COMMISSION

EXHIBIT # 4

PAGE 2 OF 3

EXHIBIT A

PC RESOLUTION NO. 96-5
(Page 2 of 2)

5. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:

Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along 7th Street.

Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

6. The proposed use is permitted in the RM zone and is in compliance with the City's General Plan designation of Medium Density Residential; the project will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
7. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Manhattan Beach hereby APPROVES the Coastal Development Permit for a Single-Family Dwelling on the property located at 700 The Strand, subject to the following conditions:

1. The plans shall be in substantial conformance with the plans submitted to, and approved by, the Planning Commission on February 28, 1996.
2. This Resolution shall become effective following the 30 day City Council appeal period, and following the subsequent Coastal Commission appeal period which is 10 working days following notification of final local action.
3. The Coastal Development Permit shall be approved for a period of one year after its date of approval, with the option of future extensions.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of February 28, 1996 and that said Resolution was adopted by the following vote:

AYES: Vining, Hall, Fahey, Kaplan

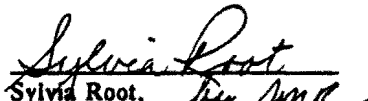
NOES: None

ABSTAIN: None

ABSENT: Chairman Blanton



RICHARD THOMPSON,
Secretary to the Planning Commission



Sylvia Root,
Recording Secretary

COASTAL COMMISSION

EXHIBIT # 4
PAGE 3 OF 3

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
MEMORANDUM

TO: Planning Commission

FROM: Richard Thompson, Community Development Director
S. Maxine Rhyne, Planning Administrator *Rich*

BY: Bobby Ray, Senior Planner *MR*

DATE: February 28, 1996

SUBJECT: Coastal Development Permit for a new Single Family dwelling to replace an existing Two-Unit (duplex) dwelling on the Property Located at 700 The Strand (Lavery)

RECOMMENDATION

APPROVE the requested Coastal Development Permit.

BUDGET IMPLICATION

Total Staff time involved in analysis and reporting on this matter is approximately 35 hours, with a total cost of approximately \$1,575.

APPLICANT / PROPERTY OWNER

Mr. and Mrs. Roger Lavery
310 16th Street
Manhattan Beach, CA. 90266

BACKGROUND

Coastal Issues - New Legislation

In January, 1996 new legislation became effective (AB 1303, copy attached) amending certain sections of the California Coastal Act. Included with these amendments are new provisions intended to streamline the Coastal permitting process. The subject provision allows cities with certified Local Coastal Programs to waive the public hearing requirements for certain "minor development", as defined in the adopted legislation, provided that no additional discretionary permits are required for the project. This waiver would allow Staff to administratively process the permit. Within the City of Manhattan Beach the waiver is most applicable to single family development in the appeal jurisdiction of the Coastal Zone. Typically, single family projects in this area do not include any discretionary permits other than the Coastal Development Permit.

EXHIBIT C
COASTAL COMMISSION

A5-MHB-96-078

EXHIBIT # 5

PAGE 1 OF 5

The procedure utilized in the waiver process requires that public notification be made in the same manner as would be required for a public hearing. The public notice (copy attached) must identify that the project is a "minor development" and is subject to the public hearing waiver. However, should any person request a hearing on the project the City is obligated to schedule a public hearing before the Planning Commission. Additional fees are charged to the project applicant to cover the cost of Staff time spent in preparation for the hearing. The amended Coastal Act requires a noticing period of 15 working days to allow for public comment, or request for hearing.

Subject Application - 700 The Strand

On November 28, 1995 the applicant submitted an application for a building permit to allow the construction of a new single family dwelling at 700 The Strand. During the plan check process the applicant was informed that the project would require a Coastal Development Permit. Additionally, due to the project location, the issuance of a Coastal Development Permit would require a public hearing. The applicant was informed of the recently adopted legislation (AB 1303) and the effective date of the legislation (January, 1996). Staff suggested that the applicant may wish to withhold the Coastal application until the effective date in order to allow for an administrative review, and subsequently streamline the permit process.

It is important to note that prior to the effective date of AB 1303 the project would have required a public hearing without the possibility of a waiver. The City's Local Coastal Program requires that all development within the appeal area, not specifically exempt, proceed through a public hearing process. Prior to the enactment of AB 1303, all new single family development in the appeal area required a public hearing and required submittal of the public hearing fee. The intent of this new legislation, in order to streamline the process, is to provide opportunity to waive this hearing requirement for minor development and reduce the cost of filing fees. However, in order to guarantee public disclosure and participation in the permit process, the legislation retains the public hearing requirement if requested by a member of the public. Consistent with this provision, there is no absolute guarantee that a hearing will not be required for future single family projects in this area.

The Coastal application was filed on January 2, 1996. Public Notices were mailed (500' Radius), and publication made in the Beach Reporter, on January 11, 1996. On January 16, 1996 a request for hearing was received by the Community Development Department from Mr. William Victor. Upon receipt of this request Staff was obligated to schedule the subject hearing. Public notices for this hearing were mailed and published on February 8, 1996.

PROJECT OVERVIEW

LOCATION

Location: 700 The Strand, located between The Strand and Ocean Drive adjacent to 7th Street (See Site Location Map).

Legal

Description: Lot 6, Block 8, Manhattan Beach Tract

Area District: III (Beach Area)

LAND USE

General Plan Designation: Medium Density Residential

L.C.P., L.U.P.: Medium Density Residential

Zoning: RM, Medium Density Residential

<u>Land Use:</u>	<u>Existing</u>	<u>Proposed</u>
	Two-Unit Residential (2-Story, Duplex)	Single-Family Residential (3-Story)

Neighboring Zoning:

North, contiguous	Medium Density Residential (RM)
South, across 7th St.	Medium Density Residential (RM)
East, across Ocean Dr.	Medium Density Residential (RM)
West, across The Strand	Open Space (OS)

Parcel Size: 3,496 sq. ft.

Floor Area: 5,489.54 sq. ft.

Driveway Access: Ocean Drive

<u>Parking:</u>	<u>Required/Permitted</u>	<u>Proposed</u>
	3 enclosed spaces	3 enclosed spaces

<u>Buildable Floor Area:</u>	1.6 x 3,496 = 5,593 sq. ft. livable area	5,489 sq. ft. livable area
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<u>Building Height:</u>	30 feet, 36 ft.** (30 feet + 20%)	33 feet
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<u>Building Height Elevation:</u>	55.48 ft.*	54.31 ft.
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* Maximum Building Height was calculated utilizing the four property corner elevations of 21.07 (NW), 29.87 (NE), 29.88 (SE), and 21.12 (SW). These numbers have been verified by the Building Division.

** Secondary Height Calculation = 10 % (30' + 3' = 33')

	<u>Required/Permitted</u>	<u>Proposed</u>
<u>Setbacks:</u>		
Front	5 ft.	5 ft.
Rear	5 ft.	5 ft.
Side	3 ft. 4 in.	3 ft. 4 in.
Corner Side (7th St.)	1 ft.	1 ft.
<u>Open Space:</u>	350 sq.ft.	392.89 sq.ft.

The usable open space area is provided per the following table:

<i>First Floor (Basement Level)</i>	= 0
<i>Second Floor (Main)</i>	= 256.39 square feet
<i>*Third Floor</i>	= 136.50 square feet
Total	= 392.89 square feet

* The third floor living area (2,173.97 square feet) is 39% of the total buildable floor area (5,489.54 square feet); therefore, 39% of 350 square feet (136.5 square feet) above the second story may be counted towards required open space per Municipal Code Section 10.12.030 M [3].

ENVIRONMENTAL DETERMINATION

According to the California Environmental Quality Act (CEQA) Section 15303 (b), as modified by the Manhattan Beach CEQA Guidelines (Sections VI d. 4 and 13), residential projects of

four units or less, have been determined to be Categorical Exempt from environmental review. The proposed project consists of the construction of a single family residential dwelling.

DISCUSSION

As stated, Staff received a letter (copy attached) from Mr. William Victor contesting the hearing waiver and requesting that this project proceed through the public hearing process. No other correspondence on this matter has been received by Staff. The reasons for Mr. Victor's request are: (1) preserve the rights to appeal to the Coastal Commission; (2) lack of verification by the City of compliance with the height limitation, Manhattan Beach Building Code, Local Coastal Plan, and the Manhattan Beach General Plan.

Staff finds no basis for the above assumptions. The project is in the plan check process and has been reviewed by the Building and Planning Divisions. The project is consistent with the

development standards of Title 10 (Zoning Ordinance), and is consistent with the underlying General Plan designation of "Medium Density Residential". This General Plan designation allows a range of residential dwelling units from 0 to 35 units per acre. Additionally, the project is consistent with the goals and policies of the Local Coastal Program. The building height, as shown, is consistent with the height limitation of the "RM - Area District III" zoning district and the property corner elevations utilized have been verified by the Building Division. Verification of site elevation is always done as a part of the plan check process.

The amended Coastal Act does not provide any provision for the City to disallow patently frivolous requests for hearing, or to question the legitimacy of such requests. If a request for hearing is received, the City is obligated to proceed to the hearing process. This is the procedure followed with the subject application.

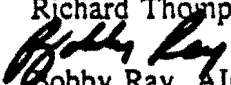
CONCLUSION

Staff supports the project on the basis that it is consistent with the City's General Plan, Zoning Ordinance and Local Coastal Program and is compatible with the residential density in the surrounding area. In addition, the project meets or exceeds all of the development standards of Title 10 (Zoning Ordinance). The project is in plan check and has been reviewed by the Building and Planning Divisions.

ALTERNATIVES

1. Subject to public testimony received, **APPROVE** the Coastal Development Permit and **ADOPT** the attached Draft Resolution.
2. Subject to public testimony received, **APPROVE** the Draft Resolution with revised and/or additional findings and conditions to those noted in the attach Draft Resolution.
3. **DENY** the project subject to public testimony received, based upon appropriate findings, and **DIRECT** Staff accordingly.

Respectfully Submitted,
Community Development Department
Richard Thompson, Director


Bobby Ray, AICP
Senior Planner

Attachments:

- Exhibit A 'Draft' Resolution No. PC. 96-
- Exhibit B Site Location Map
- Exhibit C AB 1303 - Amended Coastal Act
- Exhibit D Public Notice of Hearing Waiver
- Exhibit E Letter from Mr. William Victor (Hearing Request)
- Exhibit F Development Plans

xc: Mr. and Mrs. Roger Laverty, Property Owner/Applicant
Wade Killefer & Christian Yeager, Project Architects
William Victor

COASTAL COMMISSION

COMMUNITY DEVELOPMENT DEPARTMENT
MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Geoff Dolan, City Manager

THROUGH: Richard Thompson, Community Development Director *RT*
S. Maxine Rhyne, Planning Administrator

BY: Bobby Ray, Senior Planner *BR*

DATE: March 28, 1996

SUBJECT: Coastal Development Permit Process, 700 The Strand
=====

BACKGROUND

On February 28, 1996 the Planning Commission approved the issuance of a Coastal Development Permit for the above-referenced project. At this hearing, Mr. William Victor appeared before the Commission in opposition to the project. The basis for Mr. Victor's opposition is his contention that Staff failed to adequately review the proposal for consistency with the City's Local Coastal Program.

On March 19, 1996 the Commission's decision was transmitted to the City Council on Consent Calendar. Mr. Victor appeared before the Council requesting that the item be considered for appeal. At this meeting the Council confirmed the decision of the Commission, and the item was not appealed. In response to Mr. Victor, Council directed Staff to prepare this memorandum addressing each of the concerns expressed by Mr. Victor at the Commission and Council hearings.

DISCUSSION

Permit Process

The project, a single family dwelling, was submitted for plan check on November 28, 1995. The plan check process involves distribution of the plans to all applicable Departments, and subsequent review by these Departments. Plans for this project were distributed to, and initial review conducted on: Fire Department (December 13, 1995); Public Works (November 29, 1995); Building Division (February 22, 1996); and, Planning Division (November 29, 1995). The process involves each Department/Division conducting a review of the project relative to that Department's Code requirements/regulations/policies. Following the review any corrections required are returned to the applicant for modification. All reviews, and corrections, are conducted concurrently.

During the Planning Division's review it was indicated that a Coastal Development Permit would be required for the project. This is included as a correction in the Planning Division review. The applicant elected to withhold the Coastal application pending the effective date of AB 1303

(effective January 1, 1996), which allows the waiver of public hearings, provided that no request for hearing is submitted. In the subject case a request for hearing was received, and scheduled for February 28, 1996. During this period concurrent review by other Departments was proceeding, and corrections made. For this reason it is possible that modifications were made to the project plans subject to corrections required by the Building or Fire Departments. As a result, the plans reviewed by Planning for the Coastal Permit may not be entirely consistent with the modified plans held by the Building Division.

The permitting process has a checks and balances system, in that the final set of plans submitted for approval must be in "substantial compliance" with the plans as approved by the Planning Commission. This is a condition of approval contained in the adopting Resolution (PC No. 96-5). If, for any reason, modifications made to the project constitute a substantial modification the project must return to the Planning Commission for further review. This process is utilized for all discretionary permits (use permits, variances, etc...), to guarantee that the project ultimately approved is substantially the same as that reviewed by the Planning Commission. Minor modifications prepared as a result of the plan check process are left to the determination of Staff as to whether or not they warrant further Commission review. This process is consistent with Section A.96.030 of the Local Coastal Program - Implementation Program, which defines a Coastal Development Permit as:

"...a certificate issued by the City of Manhattan Beach in accordance with the provisions of this chapter, approving development in the Coastal Zone as being in conformance with the Local Coastal Program. A Coastal Development Permit includes all application materials, plans and conditions on which the approval is based."

The requirement for "substantial conformance" is a condition placed on the project in the adopting Resolution. Having been granted permit authority by the Coastal Commission, the City is within it's right to impose this condition.

Issues Identified

Mr. Victor, in his written and oral presentation to the Planning Commission, identified several areas of disagreement with City Staff pertaining to the subject application. These are:

1. Calculation of Buildable Floor Area.

Mr. Victor disagreed with Staff's interpretation of the buildable floor are (BFA) definition and the method use to calculate this area. On March 19, 1996, Mr. Victor submitted to the Planning Division his version of BFA calculations based on his interpretation of the Municipal Code. Staff reviewed those calculations and concluded that he may have inaccurately calculated floor area dimensions and included non-floor areas as defined in Section 10.04.030 "Definitions" of the Municipal Code. This likely accounts for the discrepancy between Staff's and Mr. Victor's calculations.

2. Inaccurate Survey.

The initial survey submitted with the development plans was missing the southwest corner elevation. Staff requested an updated survey which was verified at the site by a City Building Inspector. Upon verification, the inspector indicated that an alternative elevation be used that

more accurately reflected the existing conditions at the site. This reduced the southeast corner elevation by 8.16 inches. As a result, the permitted height limit was changed from an elevation of 55.65 to 55.48 feet, however, this change had no impact on the proposed elevation of the development which is shown to be 55.31 feet.

3. Open Space Requirements.

This project is required to provide 350 square feet of usable open space. Usable open space, as defined in Section 10.04.030 "Definitions - Open Space, Usable", may include balconies, decks, outdoor living area, and pedestrian access areas. Per the definition of "Open Space" (Section 10.04.030) landscaped areas are included in the open space calculation, provided that: the area has a minimum of 5 feet in any direction; maintains a minimum area of 48 square feet; and, not more than 75% of the area is covered by buildable floor area.

Section 10.12.030 "Property Development Regulations" limits the amount of usable open space that may be counted above the second story. Open space area above the second story is calculated based upon a proportion of the unit's total buildable floor area. Because open space determination is based upon floor area it is not surprising that Mr. Victor's open space calculations are different from Staff. Differences in total floor area will change the amount of usable open space permitted on the third floor. Mr. Victor calculates more livable area than Staff, and therefore calculates a different open space requirement.

Staff from both the Planning and Building Division spent a great deal of time working with Mr. Victor in the review of the project plans. It is apparent that Mr. Victor's issues are primarily the result of his lack of agreement with the Staff's interpretation of certain Code provisions. Notably, open space calculation and buildable floor area calculation. As stated, Staff has reviewed these plans utilizing the same interpretation as used on any similar project and is confident that the calculations presented to the Planning Commission are accurate and correct.

cc: Mr. William Victor

COASTAL COMMISSION

EXHIBIT # 6
PAGE 3 OF 3



CITY HALL
TELEPHONE (310) 545-5621

1400 HIGHLAND AVENUE

FAX (310) 545-5234

MANHATTAN BEACH, CALIFORNIA 90266-4795

TDD (310) 546-3501

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MAY 20 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

May 16, 1996

Ms. Pam Emerson
California Coastal Commission
South Coast Area
PO Box 1450
Long Beach, CA 90802-4416

RECEIVED

MAY 23 1996

RE: 700 The Strand Buildable Floor Area Calculations

Dear Ms. Emerson,

CALIFORNIA

The following numbers represent Staff's determination of Buildable Floor Area (BFA) and the applicant's submitted calculations. Both totals are below the permitted allowance.

COASTAL COMMISSION

Staff's determination

Applicant's determination

Basement Level: 1,902 square feet
First Floor Level: 1,584 square feet
Second Floor Level: 2,016 square feet
Total BFA: 5,502 square feet

Basement Level: 1,898.20 square feet
First Floor Level: 1,504.47 square feet
Second Floor Level: 2,016.21 square feet
Total BFA: 5,418.88 square feet

The total allowable BFA may not exceed the floor area factor times the lot area, or 5,593 square feet (1.6 X 3,496).

The only identifiable reference to living area was in the Staff Report to the Planning Commission dated 2/28/96. Page 3 of that report (provided to the Coastal Commission on April 16, 1996) identifies livable area in context to the project's BFA. Living area in that section of the report is referring to the BFA.

If you require additional information please do not hesitate to call the undersigned at (310) 545-5621 Extension 295.

Sincerely,
Jonathan D. Lait
Jonathan Lait, Assistant Planner

COASTAL COMMISSION

A5-MAB-96-078

EXHIBIT # 7

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XC: Bobby Ray, Senior Planner

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