

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: 1/22/97
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Staff: CP-LB
Staff Report: 3/18/97
Hearing Date: April 8-11, 1997
Commission Action:



RECORD PACKET COPY

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-85-700-A2
APPLICANTS: William Doyle & Kelly Doyle
AGENT: L. Elizabeth Strahlstrom
PROJECT LOCATION: 2 Catamaran Street, Venice, City of Los Angeles, Los Angeles County.

DESCRIPTION OF ORIGINALLY APPROVED PROJECT:

Demolition of a single family residence and construction of a three-story, 42 foot high duplex with seven parking spaces.

DESCRIPTION OF FIRST AMENDMENT REQUEST:

Convert approved duplex to a triplex (Rejected by the Executive Director on February 16, 1996).

DESCRIPTION OF CURRENT AMENDMENT REQUEST:

Convert a 42 foot high duplex with 14 parking spaces into a triplex. Each of the three proposed units contain two bedrooms and a study. (Accepted by the Executive Director on January 22, 1997).

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed amendment, subject to the special conditions on page three, is consistent with the Chapter 3 policies of the Coastal Act. The special conditions limit the number of permitted units to three and allow for inspections to ensure continued compliance with the Commission's approval.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit 5-85-700 (Doyle).
2. Appeal File No. A-5-VEN-93-218 (Doyle).
3. Settlement Agreement between Coastal Commission, the City of Los Angeles, and the Doyles to settle William Doyle, et al. v. City of Los Angeles et al. (Los Angeles Superior Court No. BC 087619).
4. Stipulation for Entry of Judgment and Order (CCP 664.6)

LOCAL APPROVAL:

1. City of Los Angeles Office of Zoning Administration Zone Variance Case No. 95-0095(ZV) & extension of time.

PROCEDURAL NOTE:

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change in the project description. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [14 California Code of Regulations 13166].

STAFF NOTE:

The staff recommendation in this report carries out the terms of the Settlement Agreement and Stipulated Judgment between Coastal Commission, the City of Los Angeles, and the Doyles to settle William Doyle, et al. v. City of Los Angeles et al. (Los Angeles Superior Court No. BC 087619) (Exhibit #6). The Settlement Agreement was approved by the Commission in closed session on January 10, 1997. The recommendation for approval of the proposed third unit is consistent with the terms of the settlement agreement. The recommended conditions of approval which limit the number of units and allow Commission staff to inspect the site are also consistent with the terms of the settlement agreement. However, the legal basis for the staff recommendation and the Commission's action on this amendment request is its conformity with the Chapter 3 policies of the Coastal Act of 1976.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, an amendment to the permit for the proposed development on the grounds that the development and the amendment, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Special Conditions

1. Number of Units

The permitted use of the structure is limited to three residential units, with one kitchen permitted in each unit.

2. Inspection of the Structure

The Commission staff shall be allowed to inspect the site and the project during the life of the development, subject to a 72-hour advance notice as provided in the Settlement Agreement and Stipulated Judgment.

III. Findings and Declarations

The Commission hereby finds and declares:

A. Amendment Description

The applicants have requested an amendment to Coastal Development Permit 5-85-700 (Doyle) in order to receive approval of a third residential unit in an existing five-level, 42 foot high apartment structure (Exhibit #4). The existing structure was approved by the Commission in 1986 as a duplex with seven parking spaces (Exhibit #7). The applicants' as-built plans show fourteen parking spaces located in the structure's subterranean parking garage: six tandem sets and two non-tandem spaces (Exhibit #5, p.1).

The site is located on the corner of Ocean Front Walk and Catamaran Street on the Marina Peninsula in Venice (Exhibit #2). The public beach is located directly in front of the building across Ocean Front Walk (Exhibit #3). The

site is forty feet wide and is composed of two lots with a total area of 3,724 square feet (Exhibit #3). However, the lot referred to as Part B on Exhibit #3 is only about four hundred square feet in area. Both lots are substandard sized lots, and even if the two lot areas are combined their total area would not be enough to qualify as a standard lot under City standards (a standard City lot is 5,000 square feet). The structure on the subject site is built across both lots of the site.

B. Local Approval

The City of Los Angeles approved the proposed third unit when the City's Office of Zoning Administration granted the applicants Zone Variance Case No. 95-0095(ZV) on April 25, 1995 (Exhibit #8). The City Zoning Administrator made the following findings (Exhibit #8, ps.8&9):

"...The subject apartment/condo unit is already built and some compromise solution is best to resolve this legal issue which has gone on for the last three years. While not a perfect solution, granting one extra unit, is a reasonable compromise in this particular case..."

"...The subject site is unique because it has one substandard lot and one remnant parcel of about 400 square feet which Building and Safety would not define as a lot..."

Zone Variance Case No. 95-0095(ZV) was due to expire one year after the date of approval, April 25, 1995. However, the City has granted the applicants an extension of time until May 2, 1997 (Exhibit #8, p.1).

C. Project History

The Commission originally approved Coastal Development Permit 5-85-700 (Doyle) on February 5, 1986 for the construction of a 42 foot high two-unit apartment structure (Exhibit #7). The applicants had applied for three units with seven parking spaces at the time, but the Commission denied the request for a triplex and limited the density of the site to two units. Although seven parking spaces were proposed by the applicants, special condition one of the permit required that a minimum of four parking spaces be provided (Exhibit #7, p.2). According to the applicants, the structure currently contains fourteen parking spaces.

In its approval of Coastal Development Permit 5-85-700 (Doyle), the Commission recognized that the subject site contains two lots, but determined that because one of the lots is only about four hundred square feet in size, and because both lots combined still cannot form a standard City lot, that the request to exceed the City's and the Commission's two unit per lot density limit was without merit (Exhibit #7, pages 4-5).

The Commission also responded to the applicants' claim that other lots in the area were allowed a higher density by clarifying why that was done in some cases, and why the subject site and project was different than any projects that had previously been permitted with higher densities. With very few exceptions, the Commission has consistently limited similar sized sites in the

Marina Peninsula area of Venice to two units since 1979 (Exhibit #7, Page 5). The few exceptions to the density limit are usually required to provide affordable housing to low income persons in any additional permitted units.

The approved 42 foot high apartment structure was constructed, and the City issued a Certificate of Occupancy for a duplex on the site on October 14, 1988 (Exhibit #8, p.5).

Then twice in 1991, the City Department of Building and Safety issued Orders to Comply when they discovered that the structure had been converted into a four or six unit apartment building without any permits. Unapproved wiring, plumbing and heating was also cited by the City (Exhibit #8, p.5).

In 1992, the applicants began the process of applying for the City's approval of additional units on the site (Exhibit #8, p.5). The applicants submitted an application for a Local Coastal Development Permit (CDP No. 92-024) to the City of Los Angeles Planning Department for the conversion of the two-unit apartment building into a four-unit condominium. The City denied Local Coastal Development Permit No. 92-024 (Doyle) stating that the proposed project was inconsistent with the City zoning code, the Coastal Act, and the prior Coastal Commission approval for two units.

The applicants appealed the City's denial of Local Coastal Development Permit No. 92-024 (Doyle) to the Commission on June 24, 1993 (Appeal File No. A-5-VEN-93-218). On August 12, 1993, the Commission upheld the City's denial by finding that "no substantial issue" existed in regards to the grounds on which the appeal had been filed. The Commission found that it's previous action limiting the density of the site to two units was the proper action under the provisions of Chapter 3 of the Coastal Act.

More recently, the applicants applied to the City for a zone variance to allow three units on the site. On April 25, 1995, the City's Office of Zoning Administration granted the applicants Zone Variance Case No. 95-0095(ZV) (Exhibit #8). The City determined that three units was an appropriate compromise between the originally approved two units and the previously proposed four units.

The applicants then submitted an amendment request to the Commission for the proposed third unit [Coastal Development Permit amendment request 5-85-700-A1 (Doyle)]. Coastal Development Permit amendment request 5-85-700-A1 (Doyle) was rejected by the Executive Director pursuant to Section 13166(A)(1) of the California Code of Regulations which states that:

"An application for an amendment shall be rejected if, in the opinion of the Executive Director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted."

At that time, the Executive Director determined that the amendment request to increase the project density from two residential units to three was inconsistent with the Commission's previous actions and special condition one

of the underlying permit, and would lessen or avoid the intended effect of the partially approved or conditioned permit. In addition, no new information (i.e. the City variance) was provided with the first amendment request.

The current application for the proposed third unit, Coastal Development Permit amendment request 5-85-700-A2 (Doyle), has been accepted because the variance approved by the City's Zoning Administrator constitutes newly discovered material information, which was not produced before Coastal Development Permit 5-85-700 (Doyle) was granted. Acceptance of the amendment request application carries out the terms of Settlement Agreement and Stipulated Judgment between Coastal Commission, the City of Los Angeles, and the Doyles to settle William Doyle, et al. v. City of Los Angeles et al. (Los Angeles Superior Court No. BC 087619) (Exhibit #6).

D. Density

The applicants have requested an amendment to Coastal Development Permit 5-85-700 (Doyle) in order to receive approval of a third residential unit in an existing five-level, 42 foot high apartment structure (Exhibit #4). As previously stated, the existing structure was originally approved as a duplex in 1986 (Exhibit #7). The site is located on the Marina Peninsula in Venice (Exhibit #1).

One of the reasons that the applicants contend that three residential units should be permitted is that the site contains two lots (Exhibit #3). There are two lots, but they are both of substandard size. The smallest lot is a remnant parcel only about four hundred square feet in size. The combined area of both lots, 3,724 square feet, does not meet the definition of a standard City lot which is 5,000 square feet.

The Commission's prior density limit of two units on the site was based on the size of the site, not the number of lots. Because the total area of the site is less than a standard City lot, the Commission applied the density limit of two units to the site. Both the Commission and the City limit the density of development in this area of Venice to two units per lot.

The City and the Commission limit residential density in the Marina Peninsula area of Venice to two units per lot in order to limit the cumulative negative effects that high density population would create on the public's ability to access the area's beaches. High residential density generates much more traffic than lower densities like SFD and duplexes.

Pacific Avenue, a two lane road, is the only street that provides residents, public transportation and beach goers with ingress and egress to the Marina Peninsula area of Venice (Exhibit #2). Even with the existing levels of residential density in the area, Pacific Avenue becomes congested with traffic during the peak business commute periods and especially during the summer when the number of visitors increased. If a higher density of development were permitted on the Marina Peninsula, the level of traffic congestion would rise accordingly and it would be more difficult for residents and visitors to access the area on its only thoroughfare, Pacific Avenue. This would negatively impact the public's ability to access the coast.

In considering the applicants' request for a third residential unit, the Commission must determine if an approval would result in any significant direct or cumulative negative impacts on coastal access. Possible negative impacts on coastal access include significant increases in traffic generation or a lack of adequate on-site parking.

The Commission staff recommends that the Commission find that the proposed amendment will not result in any significant direct negative impacts on coastal access because of its unique situation. One additional residential unit in the area will not create a significant increase in traffic generation that would directly impact public access to the coast. Adequate on-site parking is provided (see Section E).

In regards to the cumulative impact issue, the proposed three residential units may be permitted in this case because of the site's unique situation being comprised of two lots (Exhibit #3). The uniqueness of the two-lot site sets it apart from 99% of the other lots on the Marina Peninsula. Therefore, the approval of three units on this site will not set a precedent that could affect the rest of the lots in the area. Only six other sites in the area, out of hundreds of lots, are similarly comprised of two substandard lots (Exhibit #2). Therefore, even if these six other sites each applied for an extra residential unit (with adequate on-site parking), it would not create a significant increase in traffic generation that would directly impact public access to the coast. Therefore, the proposed amendment, as conditioned, is consistent with the public access and recreation policies of the Coastal Act.

E. Parking

The Commission has consistently found that a direct relationship exists between residential density, the provision of adequate parking, and the availability of public access to the coast. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by...(4) providing adequate parking facilities.

There is a shortage of public parking for beach access in the Marina Peninsula area. Because of the shortage of public parking, public access to the area's beaches has been negatively impacted. The small amount of parking area that may be available for the general public on the surrounding streets is often used by guests and residents of the area. Therefore, the Commission requires that all new development provide adequate on-site parking to meet its demands. A minimum of two parking spaces per residential unit is required.

In this case, the proposed project meets the Commission's parking standards by providing fourteen parking spaces in the subterranean parking garage: six tandem sets and two non-tandem spaces (Exhibit #5, p.1). Therefore, the Commission finds that the proposed development provides an adequate parking supply for three units and is consistent with the public access policies of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

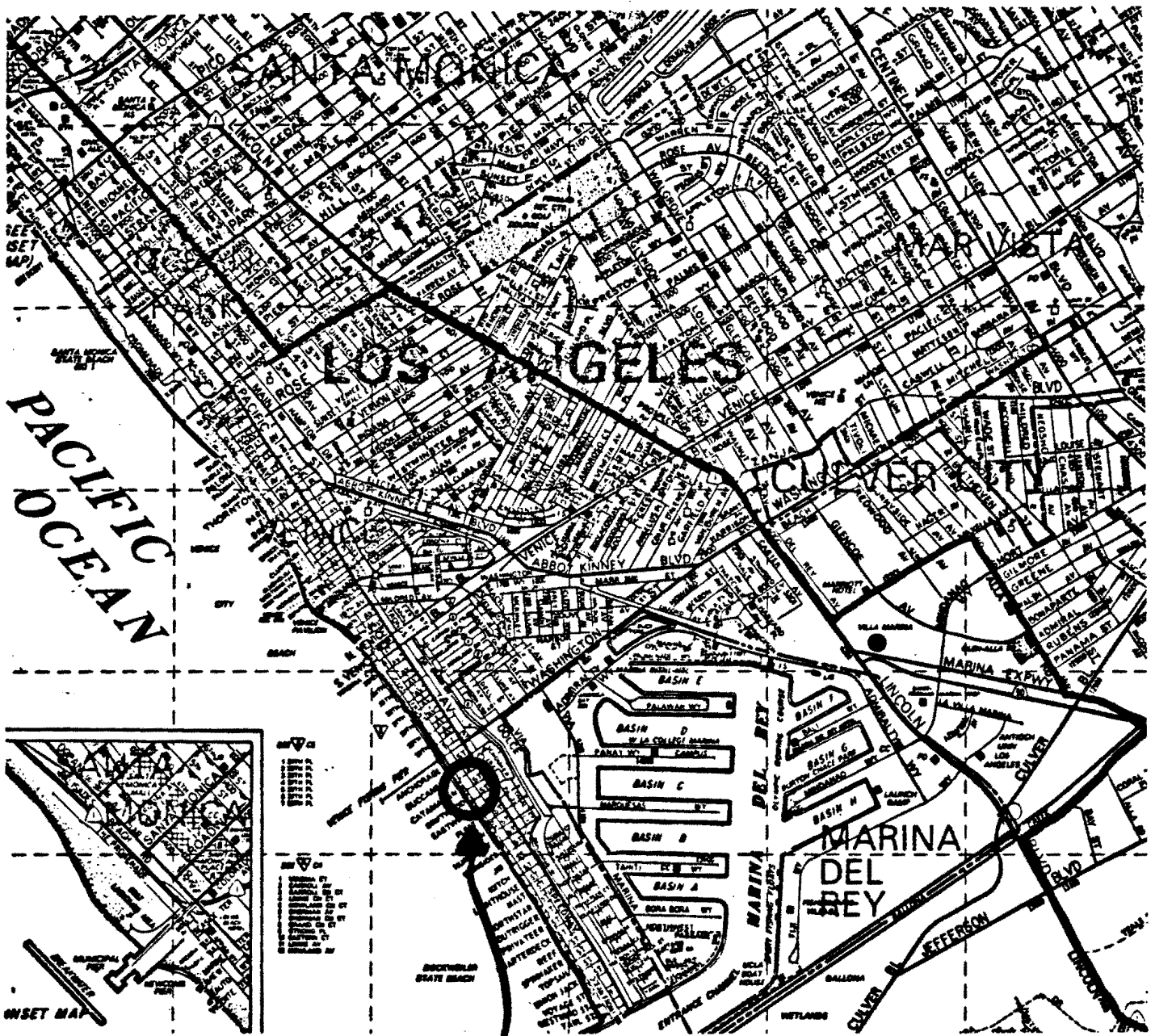
- (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The Venice area of the City of Los Angeles does not have a certified Local Coastal Program. The proposed development and amendment, as conditioned, is consistent with the access and recreation policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development and amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

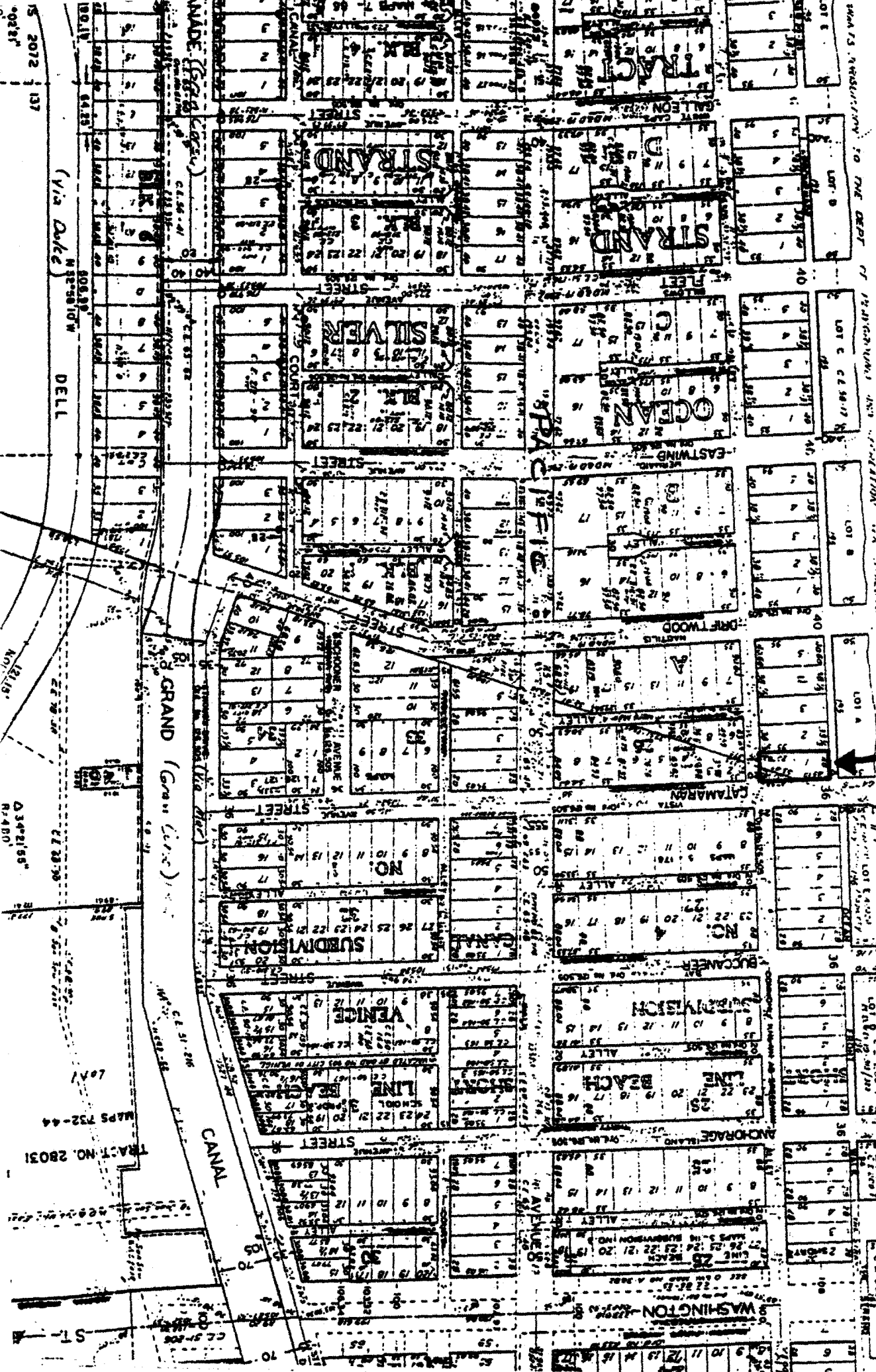
The Commission's conditions of approval adequately address and mitigate any potential adverse impacts to the environment caused by the proposed project as amended. All adverse impacts have been minimized and there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project and amendment, as conditioned, is consistent with the requirements of the Coastal Act to conform to CEQA.



Site

COASTAL COMMISSION
5-85-700-A2

EXHIBIT # 1
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Site

Beach

35 CDP 84-007
YV 13345
5088°C
36.11
35
35
37.84
49.59
35
6
4324
APTS
R3-1
63.07
35

ALL

DRIFTWOOD

SPEEDWAY

Site
Part A
Part B

APTS

25

36

Site

Apt's

10

131

Q

condos

condos

40

OCEAN FRONT WALK

40

R1-1

BEACH

cpc 16110

PACIFIC

OCEAN

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EXHIBIT # 3

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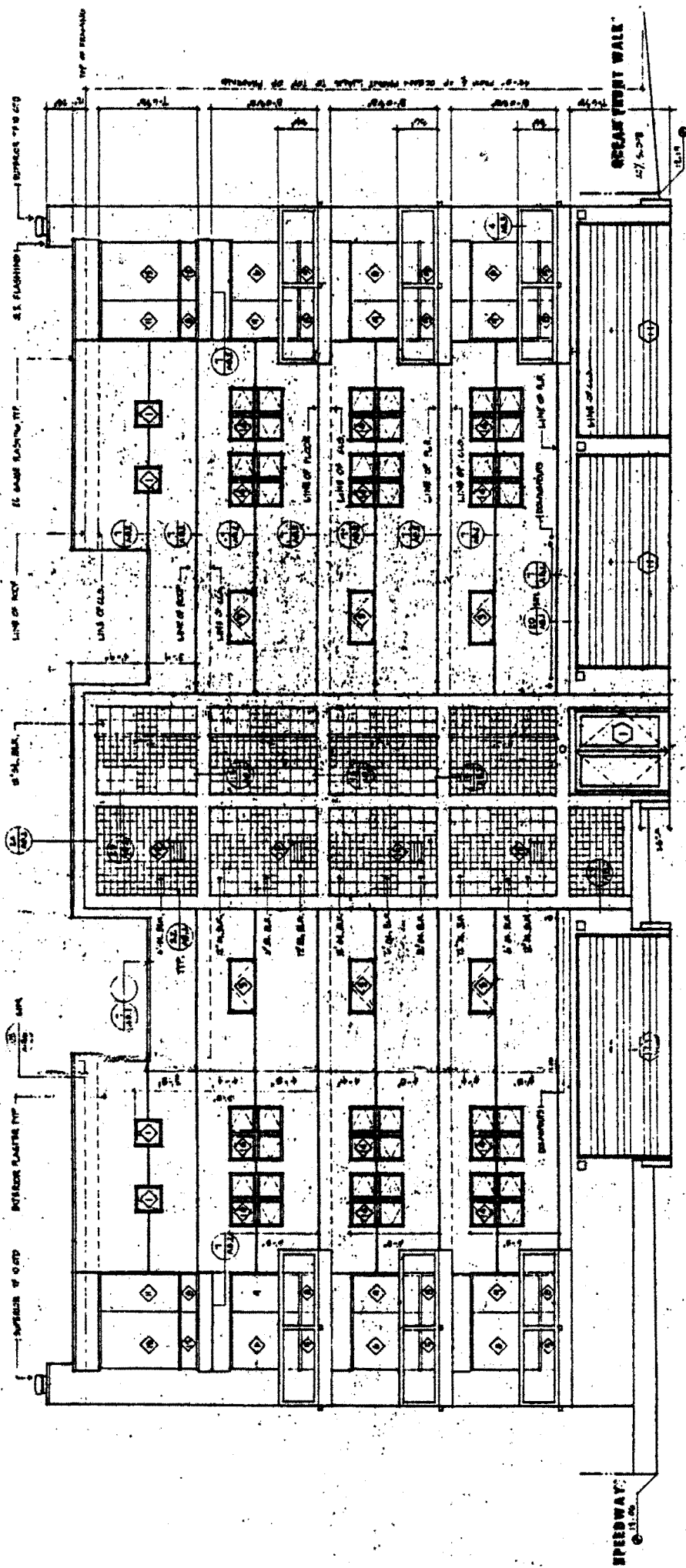
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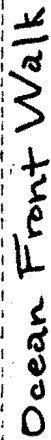
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EXHIBIT # 4

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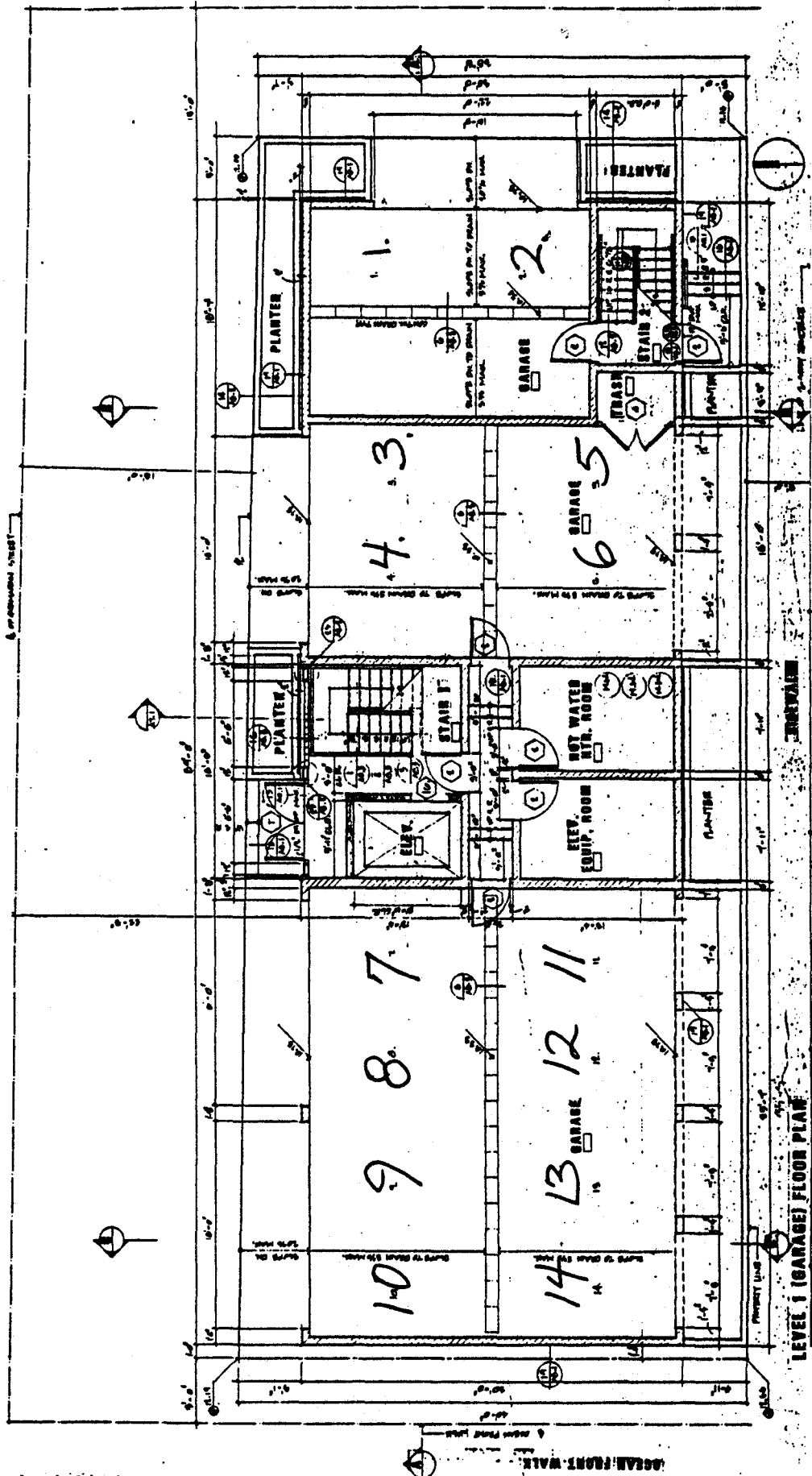


Speedway Alley

EXHIBIT # 4
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CATAMARAN STREET

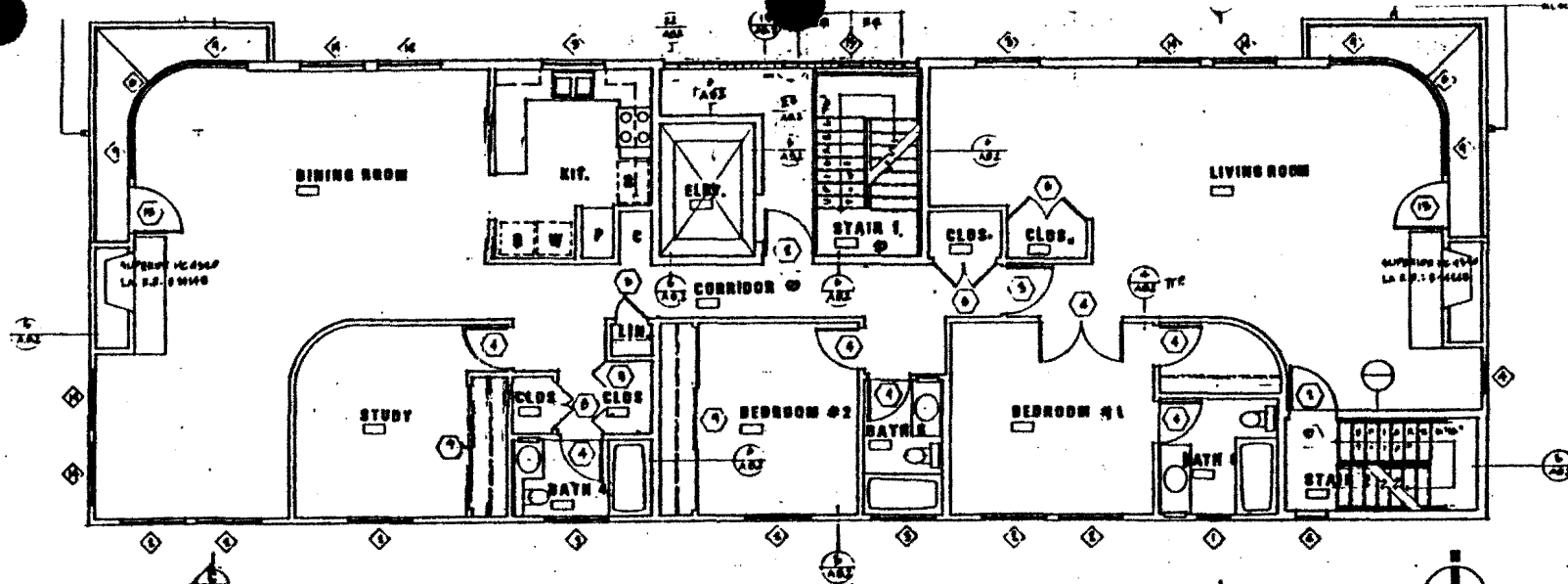
SPRINKLER (ALLEY)



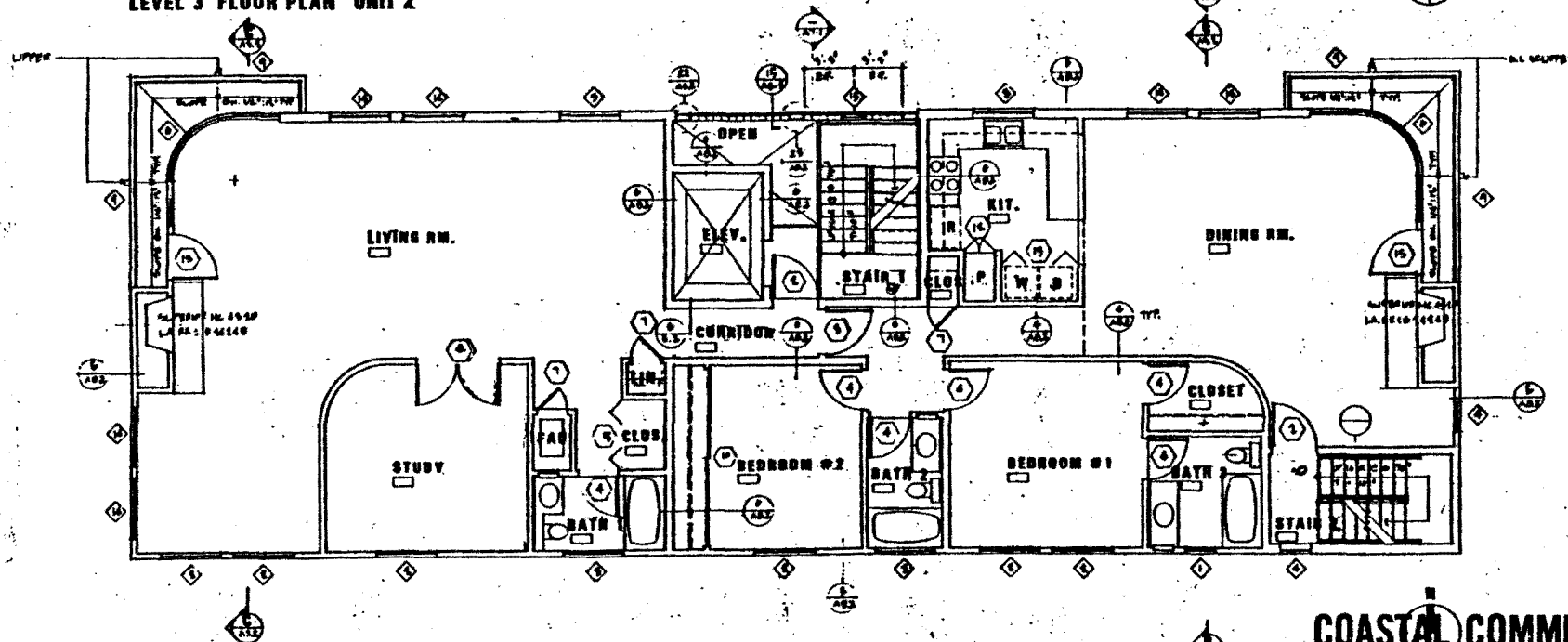
LEVEL 1 (GARAGE) FLOOR PLAN

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EXHIBIT # 5
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Level 1 - Garage



LEVEL 3 FLOOR PLAN UNIT 2



LEVEL 2 FLOOR PLAN UNIT 1

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EXHIBIT # 5

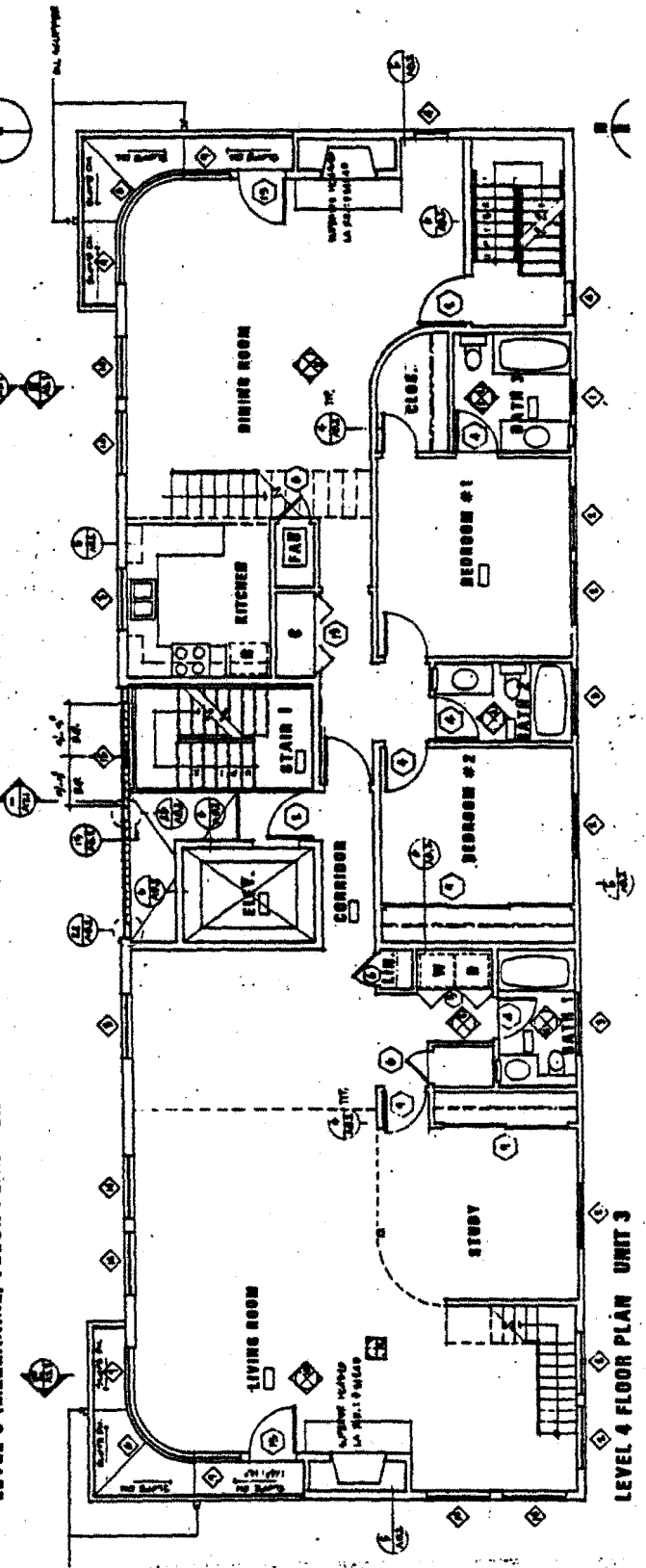
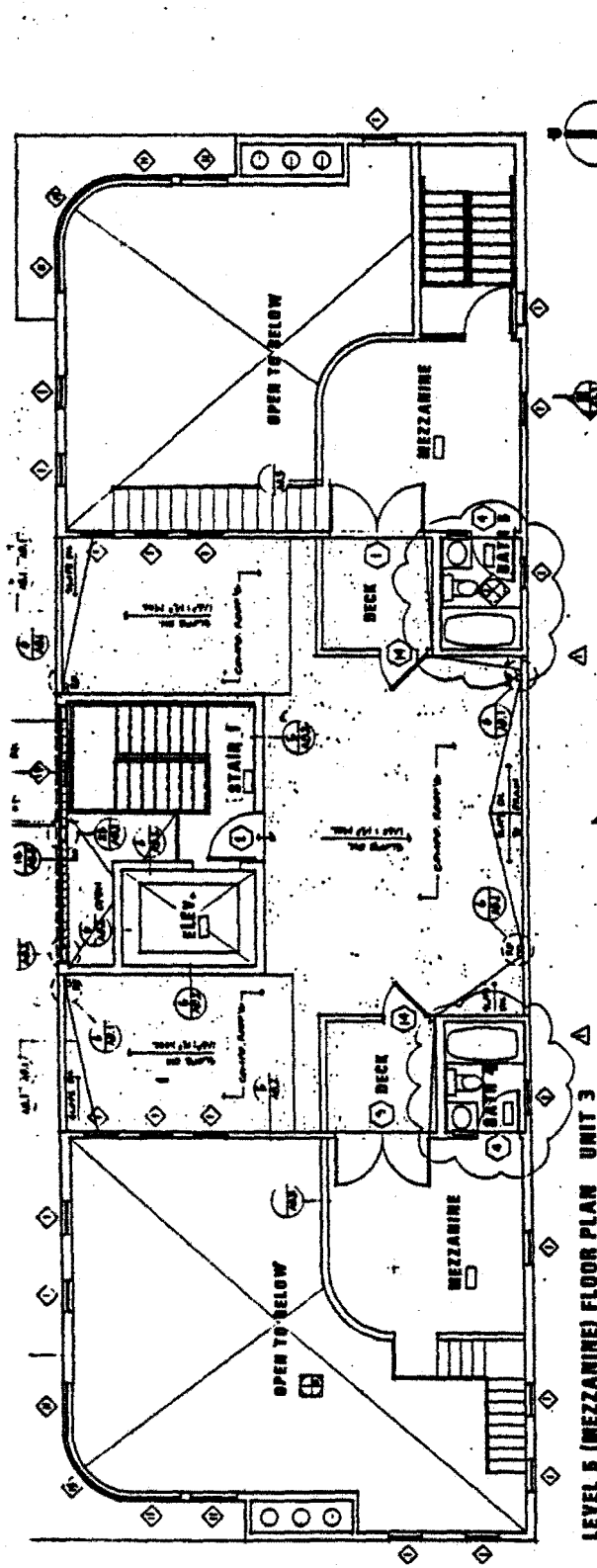
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and Cross-complainant California Coastal Commission
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 WILLIAM DOYLE and HELEN B. DOYLE,) Case No. BC 087619
12 as Trustees for the DOYLE TRUST,)
13) STIPULATION FOR ENTRY OF
Petitioners and) JUDGMENT AND ORDER
14 Plaintiffs,) (CCP 664.6)
15 v.)
16 THE CITY OF LOS ANGELES, THE)
CALIFORNIA COASTAL COMMISSION and)
17 DOES 1 through 100, inclusive,)
18 Respondents and)
Defendants.)
19 CALIFORNIA COASTAL COMMISSION,)
20 Cross-complainant,)
21 v.)
22 WILLIAM DOYLE, HELEN B. DOYLE, THE)
23 DOYLE TRUST, KELLY DOYLE, KENNETH)
SHROYER, THE DOROTHY THORPE TRUST,)
24 and DOES 101 through 200,)
inclusive,)
25 Cross-defendants.)
26
27 ////

COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 8

1 It is hereby stipulated by and between the plaintiffs
2 William and Helen B. Doyle, as Trustees for the Doyle Trust, the
3 defendant the City of Los Angeles, the defendant and cross-
4 complainant the California Coastal Commission and the cross-
5 defendants William Doyle, Helen B. Doyle, the Doyle Trust, Kelly
6 Doyle, Kenneth Stroyer and the Dorothy Thorpe Trust that this
7 case is hereby settled, and judgment shall be entered, pursuant
8 to the following terms and conditions:

9 1. The attached Settlement Agreement, signed by all
10 the parties to this stipulation, is incorporated herein by
11 reference and settles this litigation among those parties.

12 2. The parties agree that a judgment may be entered
13 pursuant to this stipulation and attached agreement. (Code of
14 Civil Procedure sec. 664.6.) The terms and conditions of the
15 attached agreement and this stipulation are binding on the
16 parties as though they were included in their entirety in a
17 judgment prepared and entered by the Court in this case. (Code
18 of Civil Procedure sec. 128.) The parties agree to cooperate,
19 and act reasonably, when initiating and implementing the property
20 inspections allowed by paragraph 5 of the attached Settlement
21 Agreement.

22 3. The parties agree that this Court shall retain
23 jurisdiction over the parties to enforce the terms of this
24 stipulation and attached Settlement Agreement until there is
25 performance in full of the terms of this stipulation and the
26 attached Settlement Agreement. (Code of Civil Procedure 664.6.)

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EXHIBIT # 6

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FRED N. GAINES
L. ELIZABETH STRAHLSTROM
Reznik & Reznik
A Law Corporation

Dated: 2/4/97

By: *Both Strahlstrom*
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Attorney for the
Plaintiffs and Cross-
defendants William Doyle,
Helen B. Doyle, the
William and Helen B. Doyle
Trust, Kelly Doyle,
Kenneth Stroyer, the
Stroyer-Dale Joint Venture
and the Dorothy Thorpe
Trust

JAMES K. HAHN, City Attorney
CLAUDIA MCGEE HENRY, Senior
Assistant City Attorney
JERI BURGE, Deputy City
Attorney

Dated: 2/7/97

By: *Jeri L. Burge*
JERI L. BURGE
Attorney for the Defendant
the City of Los Angeles

DANIEL E. LUNGREN, Attorney
General of the State of
California
JAN S. STEVENS, Assistant
Attorney General
KENNETH R. WILLIAMS
Deputy Attorney General

Dated: 2/19/97

By: *K. Williams*
KENNETH R. WILLIAMS
Attorney for the Defendant
the California Coastal
Commission

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EXHIBIT # 6
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ORDER

The forgoing stipulation is approved by the Court and it is ordered that judgment be entered in this case pursuant to, and incorporated, the terms of this stipulation and the attached Settlement Agreement. It is also ordered that, pursuant to Code of Civil Procedure section 664.6 and 128, the Court will retain jurisdiction over the parties to enforce the terms of this stipulation judgment until there is performance in full of the terms of the forgoing stipulation and attached settlement agreement.

JUDGE, LOS ANGELES COUNTY
SUPERIOR COURT

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SETTLEMENT AGREEMENT

This agreement is made and entered into by and between the California Coastal Commission, the City of Los Angeles, and the "Doyles." The Doyles, for the purpose this agreement, include: William Doyle, Helen B. Doyle, the William and Helen B. Doyle Trust, Kelly Doyle, Kenneth Shroyer, the Shroyer-Doyle Joint Venture, the Dorothy Thorpe Trust and their heirs, agents and assigns. The parties agree to settle William Doyle, et al. v. City of Los Angeles, et al. (Los Angeles Superior Court No. BC 087619) on the following terms and conditions:

1. The Doyle's application for an amendment to CDP No. 5-85-700 to allow for a third unit at an apartment building owned by the Doyles at 2 Catamaran shall be submitted to, and accepted by, the Coastal Commission's South Coast District Office. Thereafter, assuming the application meets all the necessary procedural requirements, it shall be submitted to the Coastal Commission with a recommendation from the Commission staff that it be approved. If the application is approved by the Commission, then the apartment at 2 Catamaran shall be limited to three units and shall be subject to all the other conditions deemed appropriate by the Commission. Any original condition of Coastal Development Permit No. 5-85-700, not altered by the amendment action, shall remain in effect. If the application is not approved by the Commission then this agreement, in its entirety, is null and void and shall not be admissible for any purpose.

1.

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2. The apartment buildings owned by the Doyles located at 25 and 29 Lighthouse shall each be limited to two units and shall continue to be subject to all the other conditions in the Coastal Development Permits (Nos. 5-86-021 and 5-86-022).

3. The apartment building owned by the Doyles located at 24 Buccaneer shall also be limited to two units and shall be subject to all the conditions in the applicable Coastal Development Permit (No. 5-85-540). However, the Coastal Commission will not contest the "life tenancy" hardship exemption granted by the City of Los Angeles Planning Department on July 14, 1992 for a third unit at 24 Buccaneer for Kelly Cannon provided that the apartment dwelling will return to a maximum of two units if and when Mrs. Cannon no longer resides at this location. The Doyles shall notify the Commission when, and no later than 30 days after, Mrs. Cannon no longer resides at this address.

4. The Doyles shall, within 30 days of signing this agreement, provide a title report, or other verification acceptable to the Coastal Commission staff, demonstrating that they no longer have an ownership interest in the apartment building located at 24 Catamaran.

5. The density limitations outlined in this agreement shall be confirmed by a stipulated judgment and shall be enforceable, as such, pursuant to Code of Civil Procedure section 664.6. In addition, the stipulated judgment shall provide that

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2.

EXHIBIT # 6
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the Coastal Commission or the City of Los Angeles, with three days notice to the Doyles, shall have the right to inspect the properties governed by this agreement.

6. Neither this settlement agreement nor the stipulated judgment are intended, in any way, to limit the Coastal Commission's or the City of Los Angeles' ability to take appropriate enforcement action with respect to the properties listed above or any other property or apartment buildings owned by the Doyles.

7. It is expressly understood by the parties that this Settlement Agreement is for the purpose of settling the lawsuit referenced above and resolving the claims of the parties with respect to the properties listed above. The provisions of this Settlement Agreement do not constitute, nor are they construed as, an admission of any party or evidence concerning any property other than those listed above.

8. All the terms, provisions, and conditions of this Settlement Agreement shall be binding upon or inure to the benefit of the respective heirs, administrators, executors, successors, assigns, and agents of each of the parties.

9. No modification, amendment or alteration of this Settlement Agreement shall be valid unless made in writing and signed by all the parties to this Agreement.

10. Each party shall bear their own costs and attorney's fees with respect to the above referenced litigation and this Settlement Agreement.

FRED N. GAINES
L. ELIZABETH STRAHLSTROM
Reznik & Reznik
A Law Corporation

Dated: 2/4/97

By: *L. Elizabeth Strahlstrom*
L. ELIZABETH STRAHLSTROM
Attorney for the
Plaintiffs and Cross-
defendants William Doyle,
Helen B. Doyle, the
William and Helen B. Doyle
Trust, Kelly Doyle,
Kenneth Stroyer, the
Stroyer-Dale Joint Venture
and the Dorothy Thorpe
Trust

JAMES K. HAHN, City Attorney
CLAUDIA MCGEE HENRY, Senior
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Dated: 2/7/97

By: *Jeri L. Burge*
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Attorney for the Defendant
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Deputy Attorney General

Dated: 2/19/97

By: *Kenneth R. Williams*
KENNETH R. WILLIAMS
Attorney for the Defendant
the California Coastal
Commission

COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 280
LONG BEACH, CA 90802
(213) 890-9071



FILED: 10/9/85
49TH DAY: 11/27/85
180TH DAY: 4/14/86
STAFF: L. Horowitz *LH*
STAFF REPORT: 1/13/86
HEARING DATE: 2/4-7/86

Aps 2/5/86

REGULAR CALENDAR
STAFF REPORT AND RECOMMENDATION

Application No.: 5-85-700

Applicants: William and Kelly Doyle
41 Washington St.
Venice, CA

Description: Demolition of single family residence,
construction of three story triplex, 42 feet
high, with seven parking spaces.

Site: 2 Catamaran St.
Venice, Los Angeles County

Substantive File Documents:

5-84-716 (Coleman)

SUMMARY

Staff is recommending approval with special conditions to protect and enhance public access to the beach, including a reduction in the number of units from three to two, and the requirement that the applicants improve a portion of Ocean Front Walk adjacent to their property.

COASTAL COMMISSION

5-85-700-A2

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STAFF RECOMMENDATION**I. Approval with Conditions**

The staff recommends that the Commission adopt the following resolution:

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS: See Attachment X**III. SPECIAL CONDITIONS**

1. Prior to transmittal of permit, applicant shall submit revised plans for Executive Director's approval indicating that the number of units have been reduced from three to two, and that a minimum of four parking spaces are provided.
2. Prior to transmittal of permit, applicant shall submit revised plans for Executive Director's approval indicating that Ocean Front Walk adjacent to the applicant's property shall be improved for public pedestrian access to a width not less than ten (10) feet, consistent with City of Los Angeles specifications and requirements for permanent right-of-way improvements. Applicant shall also submit evidence that the necessary permits have been obtained from the City of Los Angeles Department of Public Works for the required improvement. The sidewalk shall be constructed prior to occupancy of the building, in accordance with approved plans.

FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

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A. Project Description

The applicant proposes to demolish a single family residence, and construct a three story triplex, 42 feet high, with seven parking spaces. The project is located adjacent to Ocean Front Walk and Venice Beach, on the Marina Peninsula.

B. Public Access

The Coastal Act contains strong policies to ensure that new development enhances, and does not hinder, public access to the beach. Section 30211 provides that:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

In addition, Section 30250 requires in part that

(a) New residential, commercial, or industrial development . . . shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it . . . and where it will not have any significant adverse affects, either individually or cumulatively, on coastal resources. . . .

(1) Density of Development

In order to protect public access to the Marina Peninsula beach, the Commission in 1980 adopted density guidelines limiting new development on the Peninsula to two units per lot. These guidelines were established after careful consideration of the potential impacts on local traffic, parking and beach access likely to be generated by different levels of development. On the Peninsula, where these problems have historically been severe, the Commission determined that holding the density to two units on each lot would be the most appropriate way to preserve public access to the beach, pending completion of a Local Coastal Program that more comprehensively addressed this issue.

These guidelines have been regularly and consistently applied to all new multi-residential construction on the Marina Peninsula, except in a few instances where the Commission has allowed a greater density due to special or unique circumstances. For example, 6 units were approved on two lots at 14 and 16 Driftwood (5-81-276).

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even though staff had recommended four, because the project was "in the pipeline" when the 1980 Guidelines were adopted; similarly, at 15 Westwind (5-81-230) the Commission approved 3 units on one lot because the City Coastal Permit had already been received prior to adoption of the Guidelines. In addition, on a few of the larger than average lots, or where two or more parcels have been combined, the Commission has occasionally permitted more than two units.

The most recent exception to the two units per lot standard, and the one that has the most relevance to the proposed development, was made by the Commission in 1984 in the case of Coleman (5-84-716R), at 20 Catamaran St. In that case, the Commission approved 12 condominium units on three adjacent parcels, instead of the six that would normally be permitted under the guidelines, because of a broad array of special and unique circumstances surrounding that particular applicant and property.

Coleman contended that he actually had six legal lots, instead of three, because of an ancient subdivision line that split his three 30' by 90' parcels diagonally into six substandard lots. He had received a Coastal Development Permit from the City of Los Angeles for 12 units, based on their application of the two units per lot standard to six lots, and had completed working drawings and made extensive loan commitments based on the erroneous assumption that his City Coastal Development Permit constituted final approval for his project. Commission staff disagreed with the City's interpretation of Commission guidelines, and recommended that the Commission permit only six units on the three parcels. However, the Commission sympathized with the applicant's contention that to reduce the project from 12 to 6 units at such a late stage in the development process would create a severe hardship for him, forcing him into bankruptcy, and approved the development as proposed. The Commission also took into consideration statements made by Los Angeles City Director of Planning Calvin Hamilton at the hearing that the City was making progress in resolving access problems on the Marina Peninsula, and would soon resubmit the Venice Canals/Marina Peninsula LCP to the Commission.

The proposed development is for a triplex on a 3800 square foot parcel, at the corner of Catamaran St. and Ocean Front Walk. The same ancient subdivision line that bisects Coleman's three parcels also crosses the applicants' parcel at the northeast corner, technically creating two legal lots of approximately 3500 and 300 square feet, respectively. (See Exhibit 2) The applicants contend that they should be allowed a greater density than that recommended in the guidelines because of this unique lot configuration, based on the precedent set by Coleman. The applicants also contend that their 3800 square foot lot is bigger than other Marina Peninsula lots, and should therefore be permitted a greater density.

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The Commission finds that the applicants' request is without merit. Even though technically the applicants have two legal lots, one of these lots is only approximately 300 square feet in size, and would be completely unbuildable by itself. The total land area of the two lots -- 3800 square feet -- is close to the average size of all other Marina Peninsula parcels on which the Commission has historically limited development to two units. The Commission notes that on other parcels the same size as the applicants (2 Driftwood, 79-5293; 14 Topsail, 79-5774; 4 Yawl, 77-2333; 5518 Pacific, P-167; 5114 Pacific, P-2737; 3719 Ocean Front Walk, 5-84-175; and 3403 Ocean Front Walk, 5-85-207) the Commission has restricted development to two units. The Commission finds that it would be inappropriate to give these applicants a density bonus simply because of a quirky 1906 subdivision line that arbitrarily cuts across a corner of their property. This permit has therefore been conditioned to reduce the density from three units to two, in accordance with the Commission's adopted guidelines for the Marina Peninsula. The Commission finds that as conditioned, the proposed development will be consistent with past Commission actions on the Marina Peninsula, and with sections 30211 and 30250 of the Coastal Act.

(2) Consistency with LCP

Section 30604 of the Coastal Act requires in part, that

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The Local Coastal Program for the Venice Canals/Marina Peninsula was certified with suggested modifications in July 1983. The City has not accepted the modifications, however, and the certification, which was valid for six months until January 1984, has now lapsed.

A major issue identified in the LCP was the appropriate level of density for development on the Marina Peninsula. The City proposed to retain existing R-3 zoning for this area. However, the Commission took issue with the density proposed by the City because of concern that buildout at that level would seriously impede public access to the Marina Peninsula Beach. As the June 1983 Commission staff report pointed out,

COASTAL COMMISSION

EXHIBIT # 7

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The Marina Peninsula Beach is one of the broadest, yet one of the most under-attended beaches in Los Angeles County. The nature of existing development discourages beach use because it creates severe traffic congestion and because residents use up almost all available on-street parking. The LCP as submitted will further isolate the beaches of the Marina Peninsula because it will allow intensive redevelopment of the area. . . without adequately mitigating the adverse effects of either existing development or proposed new development on access.

The staff report goes on to state that "Unless a balance of measures to enhance public access, such as visitor-serving uses, increased parking, and completion of Ocean Front Walk are proposed, the Commission cannot find this intense redevelopment of the area consistent with the access policies of the Coastal Act."

None of the suggested access improvements have been implemented by the City, nor has the City resubmitted the LCP to the Commission, despite assurances by Planning Director Calvin Hamilton at the Commission's hearing on the Coleman project that the Peninsula LCP would soon be back before the Commission. The proposed development is consistent with the R-3 zoning proposed by the City in their lapsed LCP; it is not consistent with the Commission's action on that LCP, which approved the R-3 zoning only if access issues were addressed comprehensively in accordance with the suggested modifications. The Commission finds that approval of the development as proposed would prejudice the ability of the City of Los Angeles to prepare an LCP in conformity with Chapter 3 of the Coastal Act, inconsistent with Section 30604 of the Coastal Act.

(3) Improvement of Ocean Front Walk

Section 30212 of the Coastal Act states, in part, that

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. . .

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The Marina Peninsula Beach is one of the most underutilized beaches in Los Angeles County, due primarily to the lack of public parking on the Peninsula, the inadequacy of local streets to bear high levels of traffic, and the lack of public support facilities. Although there are public parking lots at either end of the Peninsula, (a distance of approximately 1.4 miles) there is currently no easy way for beachgoers to get from these lots to the uncrowded beach areas in the middle of the Peninsula. No public transportation serves the Peninsula, and public pedestrian access paths, including Ocean Front Walk and the sidewalks on Pacific Ave., are inadequate or non-existent.

The findings adopted by the Commission for the Venice Canals/Marina Peninsula LCP stressed the importance of improving Ocean Front Walk, a public right-of-way running the length of the Marina Peninsula along the inland extent of the beach, in meeting the access and recreation policies of the Coastal Act. One of the LCP modifications suggested by the Commission was that either the City of Los Angeles, or new development adjacent to Ocean Front Walk, be required to improve the right-of-way to a minimum ten (10) foot width, in order to provide for improved lateral pedestrian access along the beach.

Both the City of Los Angeles and the Commission have, in the past, required developers of ocean front lots to pave portions of Ocean Front Walk adjacent to their projects as a condition of development. (Sarlo, P-6705; Shackelford, 5-84-431; Yellin, 5-85-442; Stayden, 5-85-207) The Commission finds that as conditioned, to require the applicants to improve that section of Ocean Front Walk adjacent to their property, the proposed development will be consistent with Sections 30212 of the Coastal Act, the Commission's certification with suggested modifications of the Venice Canals/Marina Peninsula LCP, and with past Commission and City actions on Ocean Front Walk development proposals.

(4) Building Height

The Commission has, since 1980, enforced a 35 foot height limitation for new development on the Marina Peninsula, in order to preserve and enhance public access to the beach along the walkstreets. Heights have also been restricted in order to allow access by Fire Department emergency vehicles to structures along the interior of the walkstreets, where vehicular access is constrained.

The proposed development is located at the corner of Ocean Front Walk and Catamaran. Catamaran is not currently improved as a walkstreet. Access for emergency vehicles is available along Speedway, at the rear of the property. The Commission finds, therefore, that it is not necessary to adhere to the 35' height guideline in this particular case, and that the proposed development is consistent with the access policies of the Coastal Commission

CITY OF LOS ANGELES
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RICHARD J. RIORDAN
MAYOR

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

DEPARTMENT OF
CITY PLANNING
CON HOWE
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May 7, 1996

Kelly Doyle (A)
41 Washington Boulevard
Marina Del Rey, CA 90292

Beth Strahstrom (R)
Reznik and Reznik
15456 Ventura Boulevard, 5th Floor
Sherman Oaks, CA 91403

Department of Building and Safety

CASE NO. ZA 95-0095(ZV)
EXTENSION OF TIME
2 Catamaran Street
Venice Planning Area
Zone : R3
D. M.: 103.5A145
C. D.: 6
CEQA : CE 95-0098(ZV)
Fish and Game: Exempt
Legal Description: Lot 1, Block A,
Ocean Strand and Shoreline Beach
Subdivision 4

On April 26, 1995, the above-noted request seeking:

a variance from Section 12.23-E and 12.10-C,4 of the Municipal Code, to permit on a nonconforming lot in an R3 Zone the continued use and maintenance of 3 units of an existing 6 dwelling unit apartment building in lieu of the maximum of 2 dwelling units allowed,

was approved.

The applicant has encountered delays with the California Coastal Commission in securing final approval for the proposed project. Therefore, a one-year time extension is granted until May 2, 1997. All other terms and conditions remain the same.

Jon Perica

JON PERICA
Associate Zoning Administrator

JP:mw

cc: Councilmember Ruth Galanter
Sixth District

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5-85-700-A2

CITY OF LOS ANGELES
CALIFORNIA

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CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

DEPARTMENT OF
CITY PLANNING
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April 26, 1995

DEC 13 1996

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Sherman Oaks, CA 91403

Department of Building and Safety

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT
CASE NO. ZA 95-0095(ZV)
ZONE VARIANCE
2 Catamaran Street
Venice Planning Area
Zone : R3
D. M.: 103.5A145
C. D.: 6
CEQA : CE 95-0098(ZV)
Fish & Game: Exempt
Legal Description: Lot 1, Block A,
Ocean Strand and Shoreline Beach
Subdivision 4

Pursuant to Los Angeles Municipal Code Section 12.27-B,1 and Charter Section 98, I hereby APPROVE:

a variance from Sections 12.23-E and 12.10-C,4 of the Municipal Code, to permit on a nonconforming lot in an R3 Zone the continued use and maintenance of 3 units of an existing 6 dwelling unit apartment building in lieu of the maximum of 2 dwelling units allowed,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over within 24 hours of its occurrence.

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5. The applicant will secure an inspection by the City Department of Building and Safety, with a copy to the Zoning Administrator, that only three kitchens exist on-site. The inspection shall be completed within 90 days of the effective date of this approval.
6. This grant is only for three dwelling units.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES - TIME EXTENSION

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within one year after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. A Zoning Administrator may extend the termination date for two consecutive additional periods not to exceed one year each, prior to the termination date of each period, if a written request is filed therefore with a public Office of the Department of City Planning setting forth the reasons for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.27-K,3 of the Los Angeles Municipal Code provides:

"It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Zoning Administrator, Board or Council pursuant to this subsection. Such violation or failure to comply shall constitute a violation of this Chapter and shall be subject to the same penalties as any other violation of this Chapter."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance shall be subject to revocation as provided in Section 12.27 of the Municipal Code. THE ZONING ADMINISTRATOR'S DETERMINATION IN THIS MATTER WILL BECOME EFFECTIVE AFTER MAY 11, 1995, UNLESS AN APPEAL THEREFROM

CASE NO. ZA 95-0095(ZV)

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IS FILED WITH THE BOARD OF ZONING APPEALS. IT IS STRONGLY ADVISED THAT APPEALS BE FILED EARLY DURING THE APPEAL PERIOD AND IN PERSON SO THAT IMPERFECTIONS/INCOMPLETENESS MAY BE CORRECTED BEFORE THE APPEAL PERIOD EXPIRES. ANY APPEAL MUST BE FILED ON THE PRESCRIBED FORMS, ACCOMPANIED BY THE REQUIRED FEE AND RECEIVED AND RECEIPTED AT A PUBLIC OFFICE OF THE DEPARTMENT OF CITY PLANNING ON OR BEFORE THE ABOVE DATE OR THE APPEAL WILL NOT BE ACCEPTED. SUCH OFFICES ARE LOCATED AT:

Los Angeles City Hall
200 North Spring Street
Room 460, Counter S
Los Angeles, CA 90012
(213) 485-7826

6251 Van Nuys Boulevard
First Floor
Van Nuys, CA 91401
(818) 756-8596

NOTICE

THE APPLICANT IS FURTHER ADVISED THAT ALL SUBSEQUENT CONTACT WITH THIS OFFICE REGARDING THIS DETERMINATION MUST BE WITH THE ZONING ADMINISTRATOR WHO ACTED ON THE CASE. THIS WOULD INCLUDE CLARIFICATION, VERIFICATION OF CONDITION COMPLIANCE AND PLANS OR BUILDING PERMIT APPLICATIONS, ETC., AND SHALL BE ACCOMPLISHED BY APPOINTMENT ONLY, IN ORDER TO ASSURE THAT YOU RECEIVE SERVICE WITH A MINIMUM AMOUNT OF WAITING. YOU SHOULD ADVISE ANY CONSULTANT REPRESENTING YOU OF THIS REQUIREMENT AS WELL.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on March 30, 1995, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that practical difficulties, unnecessary hardships or results inconsistent with the general purpose of the zoning regulations would result from a strict enforcement thereof, and that the five requirements and prerequisites for granting a variance as enumerated in Section 98 of the City Charter and Section 12.27-B,1 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject property is a level, rectangular-shaped, nonconforming record lot, having a frontage of approximately 40 feet on the east side of Ocean Front and an approximate depth of 95 feet. The site was two record lots, one of which appears to be a remnant or small remainder of a lot that while too small to be developed is now merged by the three-story building into one lot. The subject site is developed with a 42-foot in height three-story building over a subterranean parking level that covers the entire lot area.

Surrounding properties are within the R3-1 Zone. The area is characterized by recently developed condominiums or apartments.

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Ocean Front, adjoining the subject property to the west, is the beach. There is no walkway.

Catamaran Street, adjoining the subject property to the north is a walk dedicated to a variable width of 36 feet and improved with curb, gutter, and sidewalk and pavement within a 15-foot dedication.

The alley, adjoining the subject property to the rear, is a dead end alley and is improved with asphalt pavement and concrete gutter within a 20-foot dedication.

Previous zoning related actions on the site/in the area include:

Subject Property:

CDP 92-024 - On March 5, 1993, the Zoning Administrator denied a coastal development permit to permit the conversion, use and maintenance of a three-story, two unit dwelling into a four unit apartment with 14 parking spaces located in a semi-subterranean garage; and with said structure observing a maximum height of 42 feet within the dual permit area of the California Coastal Zone; but approved the conversion of the existing 9,000 square-foot duplex to a three unit apartment with one unit exclusively for low income housing in the R3-1 Zone.

Case No. CP 154 - appealed above case to the Board of Zoning Appeal. Denied. These cases are with the City Attorney's Office and cannot be attached to the file. However, Zoning Administrator's determination is attached to file.

Council File 90-1156-S4 - A request for hardship exemption from the Venice ICO for a two unit building to be converted to four units, withdrawn on February 24, 1993 by Kelly Doyle - no action by City Council.

Order to Comply No. 5067-H - December 12, 1991 follow up issued by Building and Safety - illegal four unit apartment. Gain entry and listed violation that increased density remove unapproved wiring, plumbing and heating.

Order to Comply No. 5067-H - April 16, 1991, issued by Building and Safety - duplex converted into six unit apartment gain entry and listed violation, that increased density.

Building Permit No. WLA 71184087 - Certificate of Occupancy - three-story, Type V, 30- by 89-foot duplex and attached garage, parking required-4, issued October 14, 1988.

Coastal Permit 5-85-700 - Coastal Commission on February 5, 1986 approved the demolition of single-family dwelling and construction of three-story duplex, four parking spaces, at height of 42 feet.

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Approval in Concept - by City Planning staff on September 24, 1985 for project described as three unit apartment, seven car parking at 35 feet in height.

Surrounding Properties:

Council File 87-1310-S13 - at 125 Catamaran Street, Doug Levi, for hardship exemption, storage room illegal converted into third unit - Planning Committee denied August 6, 1991.

Council File No 87-1310-S17 - at 24 Catamaran Street, Robert Binkow, for hardship exemption, storage room, illegally converted into third unit - Planning Committee denied August 6, 1991.

Case No. ZA 85-0900(YV) - at 24 Catamaran Street, Kelly Doyle, front yard setback, 7-1/2 feet for two-story duplex, granted October 9, 1985.

Council File 90-1156-S7 - at 24 Buccaneer Street, William and Kelly Doyle for hardship exemption, storage room, illegally converted into third unit, three-story plus loft - pending action.

Council File 87-1310-S13 at 36 Anchorage Street, Torrance McGough, for hardship exemption, illegally converted two and three units, approved by City Council March 13, 1991 with condition for low income unit.

Council File 90-1156-S10 - at 24 Voyage Street, Peter Stumps, for hardship exemption, illegally converted storage room into third unit of 2-1/2-story duplex.

Case No. ZA 92-0757 at 24 Voyage Street the Zoning Administrator denied a request for a third unit illegally converted. Appealed to the Board of Zoning Appeals under BZA 4684 granted December 10, 1992.

The subject property is a three-story building over subterranean parking at the corner of Ocean Front and Catamaran Street on the Marina Peninsula. The applicant is requesting a zone variance to permit a three-unit condominium complex where only two units are permitted by Code.

In 1992 staff wrote a report, attached to file, concerning an application for a Coastal Development Permit to permit the conversion of a two unit apartment building into a four unit condominium with 14 on-site parking spaces. At that time it was discovered that the building was designed and constructed with the possibility of containing six units. Neighbors had complained to the Council Office that there were six kitchens and six fireplaces in the building. A certificate of occupancy was issued for two units.

The Coastal Act and the Venice Interim Control Ordinance state clearly the number of units allowed per lot. The Regional Interpretive Guidelines, South Coast Region, Los Angeles County, Venice sub areas, Marina Peninsula, states: "Residential Development should be limited to a maximum of two units per lot." (30250) The Venice Interim Control Ordinance subsection Marina Peninsula Subarea states that a maximum of two dwelling units be permitted for all projects on residentially zoned property. The maximum height of a project shall not exceed 35 feet.

COASTAL COMMISSION

The Zoning Administrator made the following findings of fact under Case No. CDP 92-024: The subject property is a 3,800 square-foot (40- by 95-foot) nonconforming R3-1 zoned corner lot and it is nonconforming in the R3-1 Zone as to width and area. Since the ownership is under 4,000 square feet, under Section 12.23-E of the Los Angeles Municipal Code, the site is limited to two units. Further, Section 12.22-C.16 of the Los Angeles Municipal Code, allows one-half of an alley width to be used for density calculations only. The 400 square-foot alley portion is not available to increase the parcel size to avoid the limitations of Section 12.23-E but only applies to density over 4,000 square-foot legal lots.

On March 5, 1993 the Zoning Administrator denied the Coastal Development Permit to convert the building into four units. However, the Zoning Administrator approved the conversion of the 9,000 square-foot duplex into a three unit apartment with one unit exclusively for low income housing. The determination of the Zoning Administrator is attached to the file.

The entire decision was appealed to the Board of Zoning Appeals, and was denied on the 26th of May 1993.

Please note the previous actions on this site were not noted on the radius map provided with this application.

On March 16, 1995 the applicant met with staff:

- o She stated that there are two units on the subject property. She also stated that there had been additional kitchens which have been removed, that a request had been made previously for four units but not six units and the current request was for three units.
- o She provided building floors plans for the application, attached to the file, that indicate two kitchens only, one each on "Level 2" and "Level 4". (The "Level 1 (Garage) Floor Plan" was submitted as a plot plan for the subject application but the floor plans for the other levels were not provided with the application.) She stated the proposed third unit would be on Level 5 (mezzanine).
- o When advised by staff of the Department of Building and Safety's defining elements for a kitchen she stated that she was unaware and had not been advised that there may be elements of the former kitchens that by this definition may continue to make them kitchens (The relevant definition copied from the Department of Building and Safety's Planning And Zoning Code User's Manual And Commentary is attached to the file and copies were provided to the applicant and her representative.) She stated that she would accept an additional inspection and would remove any kitchen elements as might be required.
- o She stated her three unit density is compatible with the existing residential densities in the immediate area, requested that the documentation she would provide supporting this fact be incorporated into the file and that the Zoning Administrator be alerted to this documentation. (Staff received the subject material on March 17th and has attached this residential density documentation provided by the applicant to the file as requested.)

On March 17, and 21, 1995 staff spoke with the Building and Safety inspector of the subject site regarding the removal of the unpermitted kitchens. When asked about the defining elements of a kitchen pursuant to the Building and Safety's Planning And Zoning Code User's Manual And Commentary he stated that his December 1, 1994 decision to close the Order to Comply file was based only on the removal of appliances and the sinks from the "two to four" additional kitchens. He stated that the other elements of a kitchen pursuant to the current Department of Building and Safety definition for a kitchen may still remain. Having closed the Order to Comply file he stated that he has no authority to reinspect the premises.

As far as Planning staff knows, the applicant was unaware of the other elements that comprise a kitchen pursuant to the Department of Building and Safety definition until staff advised her at the March 16th meeting.

The ambiguity regarding the number of units in the subject building still remains due to elements of the former kitchens that may exist and constitute by Department of Building and Safety definition a kitchen. However, the applicant has stated to staff that her request is for three dwelling units, only and she will comply with further modifications to the former kitchen areas, as may be required.

FINDINGS

In order for a variance to be granted, all five of the mandated findings delineated in City Charter Section 98 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

This is a strange case due to several unusual factors. The subject property is defined by the City as one lot which at 3,800 square feet in size (no alley credit) is substandard. The Venice Interim Control Ordinance which applies to this lot allows two dwellings per lot. Due to a series of previous actions, the applicant developed a building with the apparent layout of four kitchens and the potential to permit six dwellings.

After previous legal battles with Building and Safety, the Planning Department and the City Attorney, the applicant has agreed to lower the requested number of units to only three. The subject apartment/condo unit is already built and some compromise solution is best to resolve this legal issue which has gone on for the last three years. While not a perfect solution, granting one extra unit is a reasonable compromise in this particular case. Without this settlement, the applicant is left with a 9,000 square-foot building of just two legal units, which is impractical to sell or rent given the typical development in the adjacent community which is typically 1,500 to 2,000 square-foot units for newer construction.

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2. There are special circumstances applicable to the subject property such as size, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.

The subject site is unique because it has one substandard lot and one remnant parcel of about 400 square feet which Building and Safety would not define as a lot. The applicant contends that she has two lots. There are no other lots in the nearby community that have this particular situation. Further, the fact that an existing residential building with between four and six units or potential units already exists makes this a special lot.

3. Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.

The applicant has submitted research that indicates that over the last 40 years, 65% of the approved lots (less than 4,000 square feet) similar to this subject lot were approved by the City for either three or four units. Two recently approved developments that represent this history of similar grants are the 20 Catamaran and 3400 Pacific Avenue projects. The 3400 Pacific Avenue project was 24 units on seven lots or about 3.4 units per acre, as an example.

4. The granting of such variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.

The project is consistent with the maximum height limit and parking provisions of the Venice ICO and in fact has extra parking beyond the required parking. The only real issue is the granting of one extra dwelling for a total of three. In order to avoid further legal agreements over this case and because there is no direct harm to adjacent residents, the granting of a third unit is a compromise solution to resolve this unique situation.

5. The granting of the variance will not adversely affect any element of the General Plan.

The third dwelling unit would represent a density of 20 units to the area which is below the current R3 density range of 24-40 dwelling units per acre for this site. The two cited precedent projects at 20 Catamaran and 3400 Pacific Avenue were for densities averaging twice this requested density. This grant would also be consistent with the previous approval in City Planning Case CDP 92-024 which previously had also granted three units with one unit reserved for special needs housing.

ADDITIONAL MANDATORY FINDINGS

6. The National Flood Insurance Program flood insurance rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the

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City Council by Ordinance No. 154,405, have been reviewed and it has been determined that this project is located in Zone B, areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than 1 foot or where the contributing drainage area is less than 1 square mile; or areas protected by levees from the base flood. (Medium shading)

7. On January 31, 1995, the subject project was issued a Notice of Exemption (Article III, Section 3, City CEQA Guidelines), log reference CE 95-0098(ZV), for a Categorical Exemption, Class 3, Category 2, City CEQA Guidelines, Article VII, Section 1, State EIR Guidelines, Section 15100. I hereby certify that action.
8. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

Jon Perica 213-485-3851

JON PERICA
Associate Zoning Administrator

JP:lmc

cc: Councilmember Ruth Galanter
Sixth District
Adjoining Property Owners
County Assessor

COASTAL COMMISSION

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