

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
200 OCEANGATE, 10TH FLOOR  
SEAL BEACH, CA 90802-4302  
(949) 590-5071

TU 15f



Filed: March 3, 1997  
49th Day: April 21, 1997  
180th Day: August 30, 1997  
Staff: John T. Auyong *JAA*  
Staff Report: April 23, 1997  
Hearing Date: May 13-16, 1997  
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-97-047

APPLICANT: Ericksen Construction Co. AGENT: Lana Kranda

PROJECT LOCATION: 112 and 114 Third Street, City of Seal Beach, County of Orange

PROJECT DESCRIPTION: Demolish both an existing two unit one-story apartment building and a detached 3 car garage with two apartments above (4 units total). The subject site consists of two legal lots. On each lot, construction of a 25 foot high, 2,900 square foot, two story, single family residence with an attached two car garage (two new homes total).

Lot area:	2,937 square feet (each lot)
Building coverage:	1,580 square feet (each lot)
Pavement coverage:	1,000 square feet (each lot)
Landscape coverage:	357 square feet (each lot)
Parking spaces:	Four total (two per lot/single-family home)
Zoning:	High Density Residential
Height above grade:	25 feet (each house)

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept

**STAFF NOTE:** The subject permit application was originally scheduled as a De Minimis Waiver for the April 1997 Coastal Commission hearing. Due to an objection raised to the project based on affordable housing issues (see Section IV.C. of this report and Exhibit C), the application was rescheduled for a public hearing at the current May 1997 hearing.

## SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed development with no special conditions.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. APPROVAL WITH CONDITIONS.**

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

**II. STANDARD CONDITIONS.**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**III. SPECIAL CONDITIONS.** None

**IV. FINDINGS AND DECLARATIONS.**

**A. Project Description**

The subject site consists of two legal lots. A one-story apartment building containing two residential dwelling units exists on the front portions of the two lots (street frontage). A detached two-story structure exists on the rear portions of the two lots (alley frontage). The two-story structure consists of a three-car garage at ground level, and two residential units on the second floor. Thus, a total of four residential dwelling units and three parking spaces exist on-site. (see Exhibit B)

The applicant is proposing to demolish the existing structures. On each lot, the applicant proposes to build a 25 foot high, 2,900 square foot, single-family residence with an attached two-car garage. (see Exhibit B) A total of two new homes and four parking spaces would be built. The two proposed homes would be identical.

**B. Public Access**

Section 30252 of the Coastal Act states, in relevant part:

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

The subject site is not located between the nearest public roadway and the shoreline nor within 300 feet of the inland extent of the beach. However, the subject site is located within the first block from the beach. The street-ends in this area of the City of Seal Beach, including Third Street on which the subject site is located, provide vertical access to the beach. Therefore, beachgoers who park on Third Street in the same block as the subject site have only a one block walk to the vertical accessway provided by the street-end.

When a private development does not provide adequate on-site parking, users of that development are forced to occupy public parking that could be used by visitors to the coastal zone. A lack of public parking discourages visitors from coming to the beach and other visitor-serving areas, resulting in adverse public access impacts. Thus, all private development must provide adequate on-site parking to minimize adverse impacts on public access.

The Commission has consistently found that two parking spaces are necessary to satisfy the parking demand generated by individual dwelling units. The existing four dwelling units should thus provide eight on-site parking spaces. However, only three parking spaces currently exist on-site. Therefore, the existing residential units theoretically are deficient by five parking spaces.

The proposed development would eliminate this parking deficiency by reducing the number of residential units on the site and providing parking adequate to meet the demand of the buildings proposed to be constructed. The proposed two single-family homes would provide four parking spaces, in conformance with the Commission's regularly used parking standards. Thus, the proposed development would maintain public access to the coast by providing adequate parking. Therefore, the Commission finds that the proposed development would be consistent with Section 30252 of the Coastal Act regarding parking.

C. Affordable Housing

The subject permit application was originally scheduled as a De Minimis Waiver for the Commission's April 8, 1997 meeting. An objection was received to the proposed project on the grounds that the project would result in the destruction of low/moderate income housing without mitigation (see letters in Exhibit C).

The City did not require a survey of the income levels of the tenants of the existing residential units. This is because the City has concluded that the demolition of the existing structures is exempt from the requirement to provide replacement housing under Government Code Section 65590(b)(1), because (1) the existing dwelling units are in more than one residential structure but include ten or fewer units, and (2) the inclusion of affordable units on-site is infeasible given the site constraints (see Exhibit C). Thus, even if low and moderate income tenants were in fact to reside in the existing dwelling units, the City points out that it would not make a difference in this particular case pursuant to Government Code Section 65590(b)(1).

Up until 1981, Section 30213 of Chapter 3 of the Coastal Act contained provisions regarding affordable housing. Effective January 1, 1982, the Coastal Act was amended to delete the affordable housing provisions from Section 30213. At the same time, the Legislature amended the Government Code to require local governments to address affordable housing in the coastal zone. Therefore, there are no longer any Chapter 3 policies regarding affordable housing for which new development needs to conform. Thus, the Coastal Commission no longer has the authority to require that new development satisfy affordable housing requirements.

To the extent existing development was constructed subject to affordable housing requirements of a coastal development permit issued prior to 1982, the applicability of those requirements is governed by Coastal Act Sections 30600.1 and 30607.2. No record was found of a coastal development permit for the existing on-site structures. Thus, the existing structures are not subject to any affordable housing requirements of a coastal development permit.

The current requirements for affordable housing within the coastal zone are contained in Section 65590 of the Government Code. The affordable housing requirements of Section 65590 of the Government Code are under the jurisdiction of the State Department of Housing and Community

Development. Further, the Commission did not impose any affordable housing requirements on the existing structures prior to 1982. Therefore, the Commission finds that it does not have the authority to require the provision of affordable housing units in the proposed development.

D. 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 the Chapter Three policies of the Coastal Act.

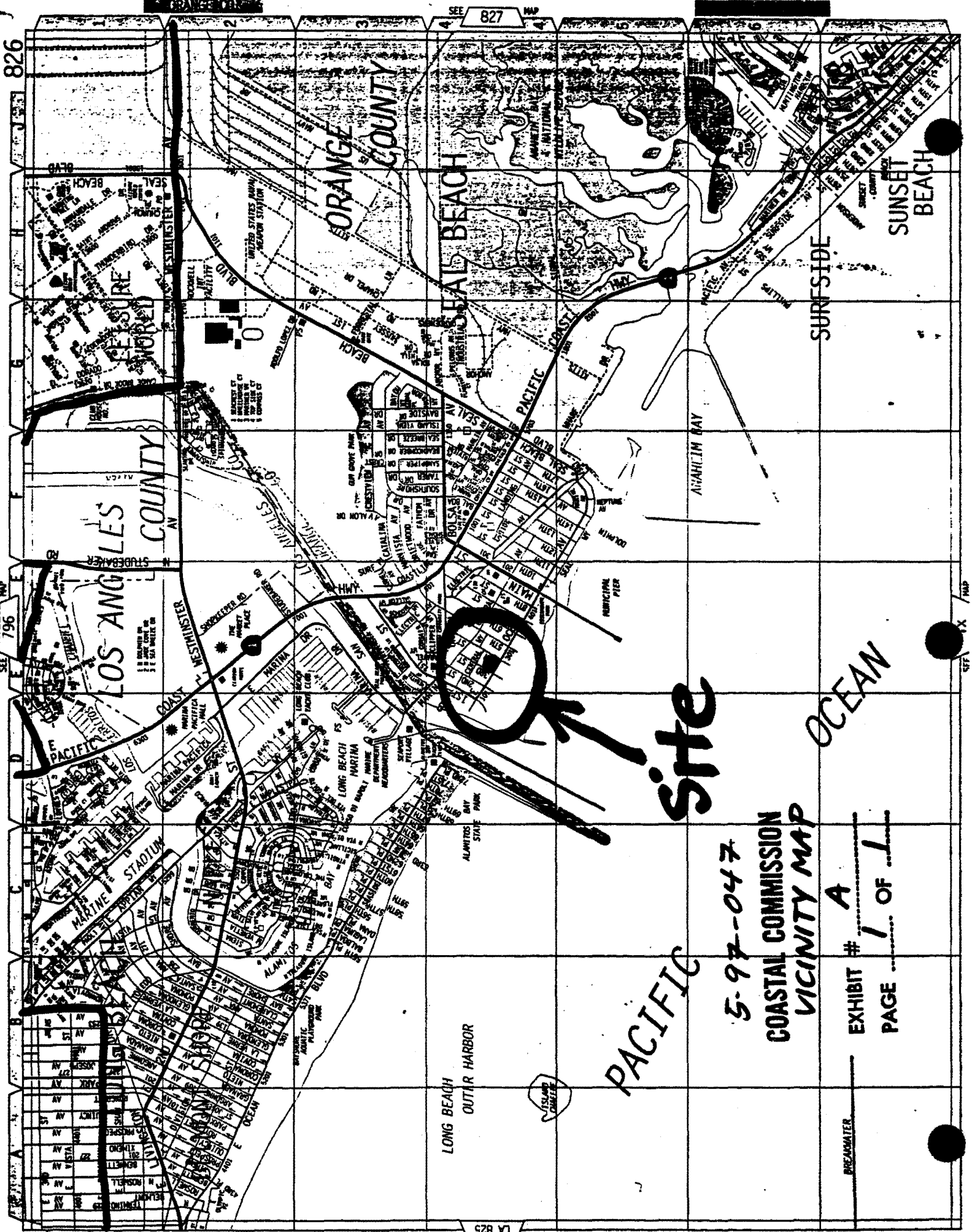
On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development is consistent with the Chapter Three policies of the Coastal Act regarding parking. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

E. Consistency with the California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 proposed project is consistent with the public access/parking policies of Chapter 3 of the Coastal Act. There are no 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.



SEE 796 MAP

SEE 827 MAP

SEE 796 MAP

SEE 827 MAP

**Site**

5-97-047

**COASTAL COMMISSION  
VICINITY MAP**

EXHIBIT # A  
PAGE 1 OF 1

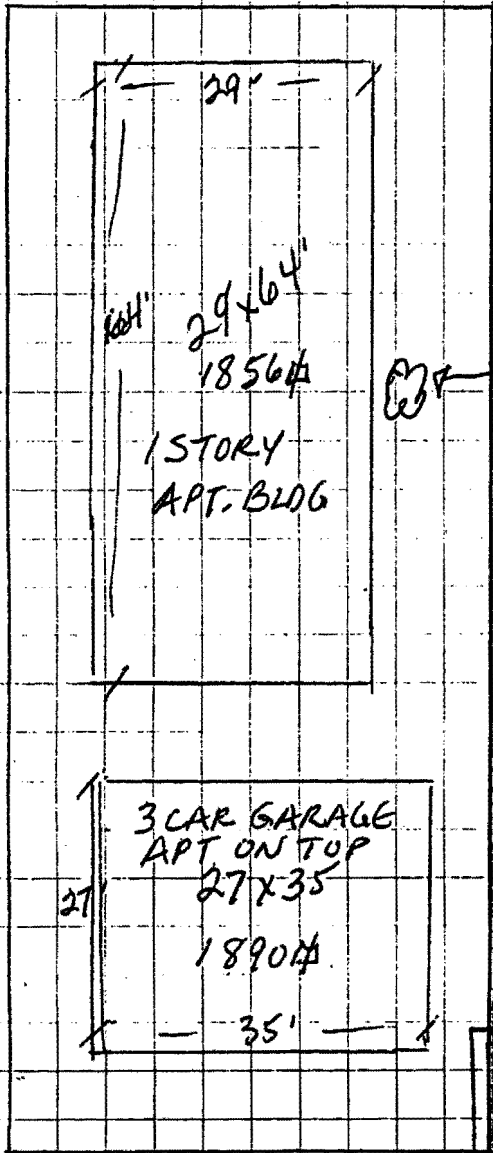
BREAMATER

# DEMOLITION PLOT PLAN

112-3RD ST

3RD ST  
50'

ALLEY



1 MEDIUM SIZE PEAR TREE

117.5'

TOTAL SQ FOOTAGE  
3746

# RECEIVED

MAR 8 1997

CALIFORNIA  
COASTAL COMMISSION

ALLEY

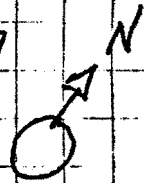
5-97-047  
COASTAL COMMISSION

5-97-047

Plans

EXHIBIT # B  
PAGE 1 OF 4

Existing  
on-site  
structures

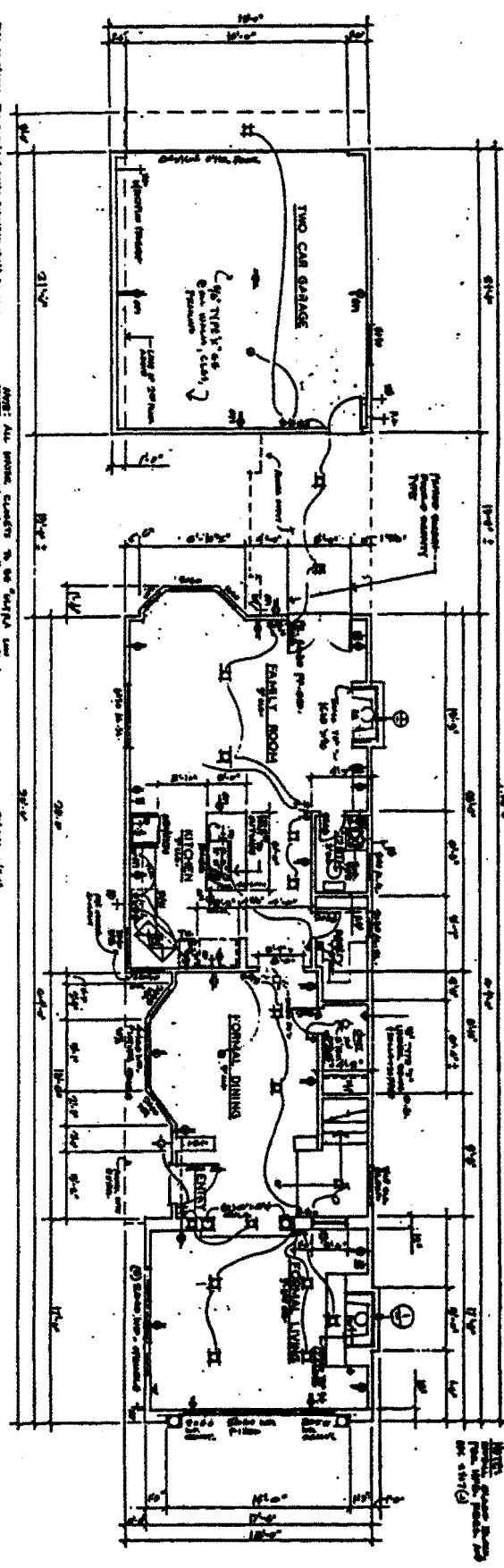


□ = 5'

5-97-047 Exhibit B "Plans" p. 2 of 4  
 (New homes)

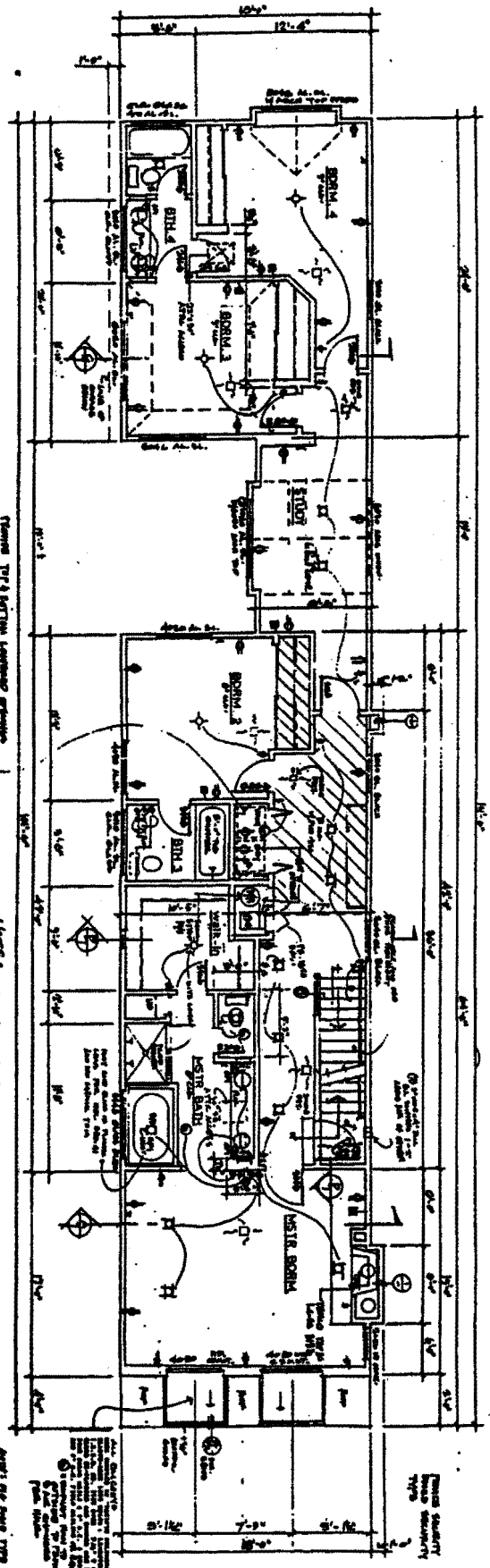
RECEIVED  
 APR 16 1997

CALIFORNIA  
 COASTAL COMMISSION



NOTE: All interior walls to be finished with 5/8" gypsum board. All exterior walls to be finished with 1/2" gypsum board. All floors to be finished with 1/2" gypsum board. All ceilings to be finished with 5/8" gypsum board. All doors to be finished with 1/2" gypsum board. All windows to be finished with 1/2" gypsum board. All stairs to be finished with 1/2" gypsum board. All stairs to be finished with 1/2" gypsum board. All stairs to be finished with 1/2" gypsum board.

FIRST FLOOR  
 418 sq. ft. Gross



NOTE: All interior walls to be finished with 5/8" gypsum board. All exterior walls to be finished with 1/2" gypsum board. All floors to be finished with 1/2" gypsum board. All ceilings to be finished with 5/8" gypsum board. All doors to be finished with 1/2" gypsum board. All windows to be finished with 1/2" gypsum board. All stairs to be finished with 1/2" gypsum board. All stairs to be finished with 1/2" gypsum board. All stairs to be finished with 1/2" gypsum board.

SECOND FLOOR  
 418 sq. ft. Gross

1214 STREET, SEAL BEACH, CA 92671-3200

ERIC MOSSMAN  
 Architect AIA  
 (714) 735-1119

4







*Michelle A. Brendel, Ph.D.*

219 Seal Beach Blvd., Suite A  
Seal Beach, CA 90740

(562) 431-4095

April 6, 1997

RECEIVED  
APR 8 1997

CALIFORNIA  
COASTAL COMMISSION

Director  
California Coastal Commission  
245 W Broadway, St. 380  
Long Beach, Ca. 90802

Faxed to: 590-5084

Dear Sir or Madam:

Re: 112 & 114 3rd St., Seal Beach, Ca. 90740  
Application Number 5-97-047

The applicant for the above project is planning to demolish four older rental units and build 2 large, expensive, single family homes. I am opposed to this destruction of low/moderate rental housing.

The City of Seal Beach is out of compliance with state Housing Element law. Enclosed please find copy of letter of 12-9-96 from Kimberley L. Dellinger, Deputy Director, Department of Housing and Community Development in which she states, "...the City is yet to amend its housing element to address recent amendments to housing element law concerning the preservation of subsidized multifamily housing at risk for conversion, and the establishment of housing element objectives by income category...The City has not amended its housing element to address these requirements as required by statute. Therefore, Seal Beach's housing element for the current statutory planning period (1989-1998) does not comply with State Law..."

The City repeatedly has allowed destruction of low/moderate income housing without requiring the replacement of same, or payment of fees.

As a state agency, I am requesting that you insist the City of Seal Beach comply with all state laws before you allow more destruction of low/moderate income housing.

Please put me on the mailing list for communications regarding this development as well as any developments that involve the destruction of low/moderate income housing.

I am faxing this letter as well as mailing the original and copy with self-addressed stamped envelope. Please stamp in the copy and return the conformed copy to me in the SASE.

Sincerely,

*Michelle A. Brendel, Ph.D.*  
Michelle A. Brendel, Ph.D.

5-97-047  
COASTAL COMMISSION  
*Affordable Housing Letters*

EXHIBIT # C

PAGE 1 OF 5

*Letter of Objection*

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

1800 THIRD STREET, Room 430  
P.O. BOX 952053  
SACRAMENTO, CA 94252-2053  
(916) 323-3176 FAX (916) 327-2643



December 9, 1996

**RECEIVED**  
APR 8 1997

**CALIFORNIA  
COASTAL COMMISSION**

Michelle A. Brendel Ph.D.  
219 Seal Beach Avenue, Suite A  
Seal Beach, California 90740

Dear Dr. Brendel:

**RE: Compliance Status of Seal Beach's Housing Element**

I am writing in response to your letter of November 7, 1996, and the article which appeared in the *Sun* newspaper on that date, which cites the City's position relative to the compliance status of its housing element.

As noted in our letters to you (March 26, and October 11, 1996), the City has yet to amend its housing element to address recent amendments to housing element law concerning the preservation of subsidized multifamily housing at risk of conversion, and the establishment of housing element objectives by income category. Pursuant to Chapter 889, Statutes of 1991, all local governments were required to amend their housing elements by July 1, 1992, to address these added statutory requirements (regardless of the previous compliance status of their elements). These amendments must be submitted to the Department for review. The City's responsibilities for addressing these requirements were outlined in our letter of October 13, 1992 to Mr. Lee Whittenberg (copy enclosed).

The decision of the Superior Court regarding the compliance status of Seal Beach's housing element predated the effective date of Chapter 889, Statutes of 1991. The decision therefore did not consider compliance with Chapter 889 requirements. The City has not amended its housing element to address these requirements as required by the statute. Therefore, Seal Beach's housing element for the current statutory planning period (1989-1998) does not comply with State law (Article 10.6 of the Government Code).

If you have any further questions regarding the City's housing element responsibilities or the requirements of state housing element law, please contact me or Cathy Creswell of our staff at (916) 323-3176.

5-97-047

**COASTAL COMMISSION**  
*Affordable Housing Letters*

Sincerely,

EXHIBIT #   C    
PAGE   2   OF   5  

Kimberley L. Dellinger  
Deputy Director  
5-97-047

*Attachment to Letter of  
Objection*

Enclosure

cc: Lee Whittenberg, Community Development Director  
Michael Colantuono, City Attorney  
Editor, *Sun* "At the Heart of Your Community"

# City of Seal Beach



CITY HALL • 211 EIGHTH STREET  
SEAL BEACH, CALIFORNIA 90740-6379  
(310) 431-2527

April 8, 1997

5-97-047

Lana Kranda  
Ericksen Construction  
127 6<sup>th</sup> Street  
Seal Beach, CA 90740

RE: Proposed Construction at 112 3<sup>rd</sup> Street, Seal Beach

Dear Ms. Kranda:

Your proposed construction of two (2) single family dwellings at 112 3<sup>rd</sup> Street; Seal Beach entails the demolition of a total of four (4) dwelling units in two (2) separate residential structures on the property.

Government Code Section 65590(attached) requires replacement of low and moderate-income dwelling units in the coastal zone under certain conditions. While no evidence has been provided that persons of low or moderate income currently inhabit the four- (4) units on the property, your project is exempt from the requirements of this Code section. Specifically, Section 65590.b.1 exempts your development as follows:

- (1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units [emphasis added].

In the case of your proposed development the City has determined replacement of up to four (4) dwelling units for persons of low and moderate income is infeasible in conjunction with the construction of two (2) single family dwellings on a 50' x 117.5' lot (approx. 1/8 acre).

Please feel free to call me at (562) 431-2527 if you have any additional questions or comments regarding this matter.

Sincerely,

  
Barry C. Curtis  
Associate Planner

COASTAL COMMISSION 5-97-047  
Affordable Housing Letters

EXHIBIT # c  
PAGE 3 OF 5

City letter

5-97-047  
COASTAL COMMISSION  
Affordable Housing Letters

EXHIBIT # C

PAGE 4 OF 5

Attachment to City letter

ARTICLE 10.7

Low- and Moderate-Income Housing Within the Coastal Zone

[Title 7, Planning and Land Use—Division 1, Planning and Zoning—Chapter 3, Local Planning—Article 10.7 Low- and Moderate-Income Housing Within the Coastal Zone; Article heading added to precede § 65590 by Stats 1982 ch 42 § 2, effective February 17, 1982.]

§ 65590. Application of section in coastal zone; Replacement dwelling units; Exemptions; Definitions

§ 65590.1. Application of Section 65590 requirements to proposed developments

§ 65590. Application of section in coastal zone; Replacement dwelling units; Exemptions; Definitions

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person

or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

- (1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.
- (2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.
- (3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.
- (4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in