

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



Filed: September 10 1998
49th Day: October 29,
180th Day: March 9,
Staff: BP-SD
Staff Report: September 21, 1998
Hearing Date: October 13 - 16, 1999

STAFF REPORT AND RECOMMENDATION ON APPEAL**Th 10b**

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approval with Conditions

APPEAL NO: A-6-OCN-98-111

APPLICANT: Paul Zocco

PROJECT DESCRIPTION: Construction of a 23-foot high (with chimney and cupola extending to 31.2 ft. high), 5-unit multi-family residential project consisting of two duplexes and one single family unit on a 16,682 sq.ft. lot.

PROJECT LOCATION: 506 - 512 South Pacific, Oceanside, San Diego County.
(APN 150-261-11-14)

APPELLANT: Louis Taschner

SUBSTANTIVE FILE DOCUMENTS: Certified City of Oceanside Local Coastal Program; Regular Coastal Permit RC-200-98; A-6-OCN-90-181

SUMMARY OF STAFF RECOMENDATION:

Staff is recommending that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

I. Appellant Contends That: The proposed project is inconsistent with the certified LCP with respect to height requirements.

II. Local Government Action:

The coastal development permit was approved, with conditions, by the City of Oceanside Community Development Commission on August 19, 1998.

III. Appeal Procedures

After certification of a Local Coastal Program (LCP) the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

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

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

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process is the applicant, persons who opposed the application before the local government (or their representatives), and the local government.

Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

Staff Recommendation on Substantial Issue.

The staff recommends the Commission adopt the following resolution:

Staff recommends that the Commission determine that NO SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal was filed, pursuant to PRC Section 30603.

MOTION

Staff recommends a YES vote on the following motion:

I move the Commission determine that Appeal No. A-6-OCN-98-111 raises no substantial issue with respect to the grounds on which the appeal has been filed.

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

IV. FINDINGS ON SUBSTANTIAL ISSUE.

1. Project Description. The proposed development involves the construction of five (5) two-story residential units to be constructed in three structures (two duplexes and one single family dwelling) on a vacant 16,682 sq.ft. site. The duplexes would be located on the north and south ends of the site with the single family unit in the middle. The units range in size from 2,993 sq.ft. to 3,008 sq.ft. and will be 23 ft. in height, with a chimney and cupola on each of the units extending to 31.2 ft. in height. Ten on-site parking spaces are proposed for the 5 units.

The project site is located between Ash and Elm Streets, along the east side (inland) of Pacific Street in the City of Oceanside. The seaward side of Pacific Street in this area is a coastal bluff that contains some residential development at its base. At the bottom of the bluff is the area known in Oceanside as the Strand, which contains most of the ocean-related recreational opportunities along the City's shoreline.

Surrounding development consists of one-and two-story single-family and multi-family residential uses on small lots. While the project site is located in the City of Oceanside's "Redevelopment" area, the South Pacific street area is among the best maintained and most pleasant in the City. There are few deteriorated structures in the area, and there are several buildings of unique architectural character from different eras of Oceanside development.

The property is zoned Residential Tourist (R-T) in the City's certified Local Coastal Program. The R-T zone is intended to accommodate tourist and year-round visitor-serving facilities by providing permanent and transient residential and related uses to serve all income levels and lists condominiums and multi-family residences as permitted uses. The R-T zone is primarily designated on shorefront property in order to optimize public access to the beach. The project's density is 13/du; the R-T zone permits 29/du.

On September 14, 1990 the Commission found, on appeal, that construction of a 13-unit condominium on the subject site raised a substantial issue with respect to community character because it was a 3-story structure and no other structures of the size existed in the surrounding area. In the de novo hearing, the Commission approved the project with a requirement that landscaping requirements be modified to create an intermittent landscape screen along its boundary to help mitigate the impact of the structure as viewed from South Pacific Street. However, that project was never constructed and the permit has since expired.

2. Visual Impacts/Building Height.

The proposed development is located along the east side of Pacific Street, between Ash and Elm Streets in the City of Oceanside. The City's LCP allows for structures in this area to be constructed to a maximum of 27 feet in height. The residential structures approved by the City that are the subject of this appeal are 23 feet in height. However, the structures also include chimneys and other architectural features (identified by the City as "cupolas") that increase a small portion of the building height to 31.2 feet.

Section 3018 of the certified LCP, which allows for such architectural features to exceed the height limit given certain restrictions, states, in part:

Exceptions to Heights Limits

Towers, spires, cupolas, chimneys, elevator penthouses, water tanks, flagpoles, monuments, theater scenery lofts, radio and television antennas, transmission towers, fire towers, and similar structures and necessary mechanical appurtenances covering not more than 10 per cent of the ground area covered by the structure to which they are accessory may exceed the maximum permitted height in the district in which the site is located. Such exceptions shall be subject to the following regulations:

- A. A structure may exceed the district height limit by 10 feet and a use permit may be approved for features extending more than 10 feet above the base district height limit.

The appellant contends that the City's approval of the project with the proposed architectural features (chimney and cupolas) is inconsistent with the provisions of the certified LCP which limit building height in this area to a maximum of 27 ft in height.

The appellant disagrees with the City's interpretation that the proposed "roof popout" is a cupola which is an allowable exception to the height standard. The appellant is concerned about the precedent of allowing exceptions to the height limit which may have the ability to impact public viewsheds to the ocean on other projects in the future.

The City found, in approving the development, that the portion of the chimney and cupola that extend above the 27 ft. height limit are, in fact, architectural features that do not exceed 10% of the ground area covered by the structure. Thus, the proposed development was found consistent with the certified LCP, including Section 3018 cited above.

Webster's dictionary defines a cupola as a "rounded roof or ceiling" or a "small dome or similar structure on a roof". While the roof projections for the subject development are not strictly rounded, both the dictionary and the code section make allowances for "similar structures". Based on review of the plans for the development, the Commission finds that the structures approved by the City for the subject development, which project above the 27 foot height limit, are an architectural feature and do not create habitable space or additional living area. As such, while portions of the structures approved by the City for the subject development extend above the 27 ft. height limit, these structures are consistent with the exceptions noted in Section 3018 of the City's LCP cited above.

Moreover, the subject site is located on the inland side of Pacific street and is not within an identified public viewshed and no existing public views will be affected by the proposed development. In addition, 37% of the site will be landscaped to minimize potential adverse visual impacts.

Based on the above discussion, the subject development, as approved by the City of Oceanside, is consistent with the provisions of the certified LCP pertaining to building height. Therefore, the Commission finds the City's decision approving the subject development raises no substantial issue with respect to the grounds on which the appeal was filed.

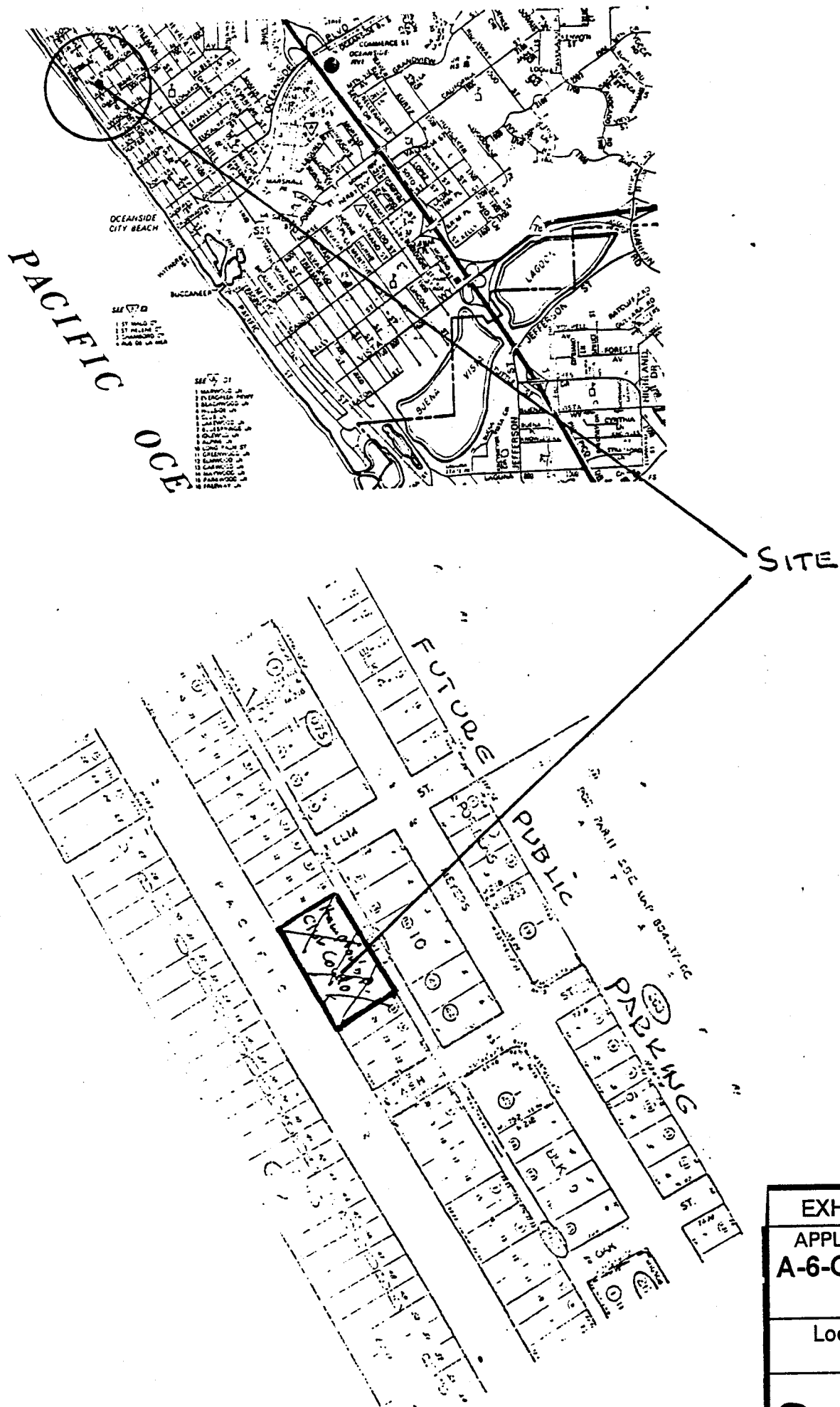


EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-98-111
Location Map
California Coastal Commission

OWNER
PALM 20000
121
10001 VIA MARIA BL.
PALMDALE, CA 93550
(818) 241-0088

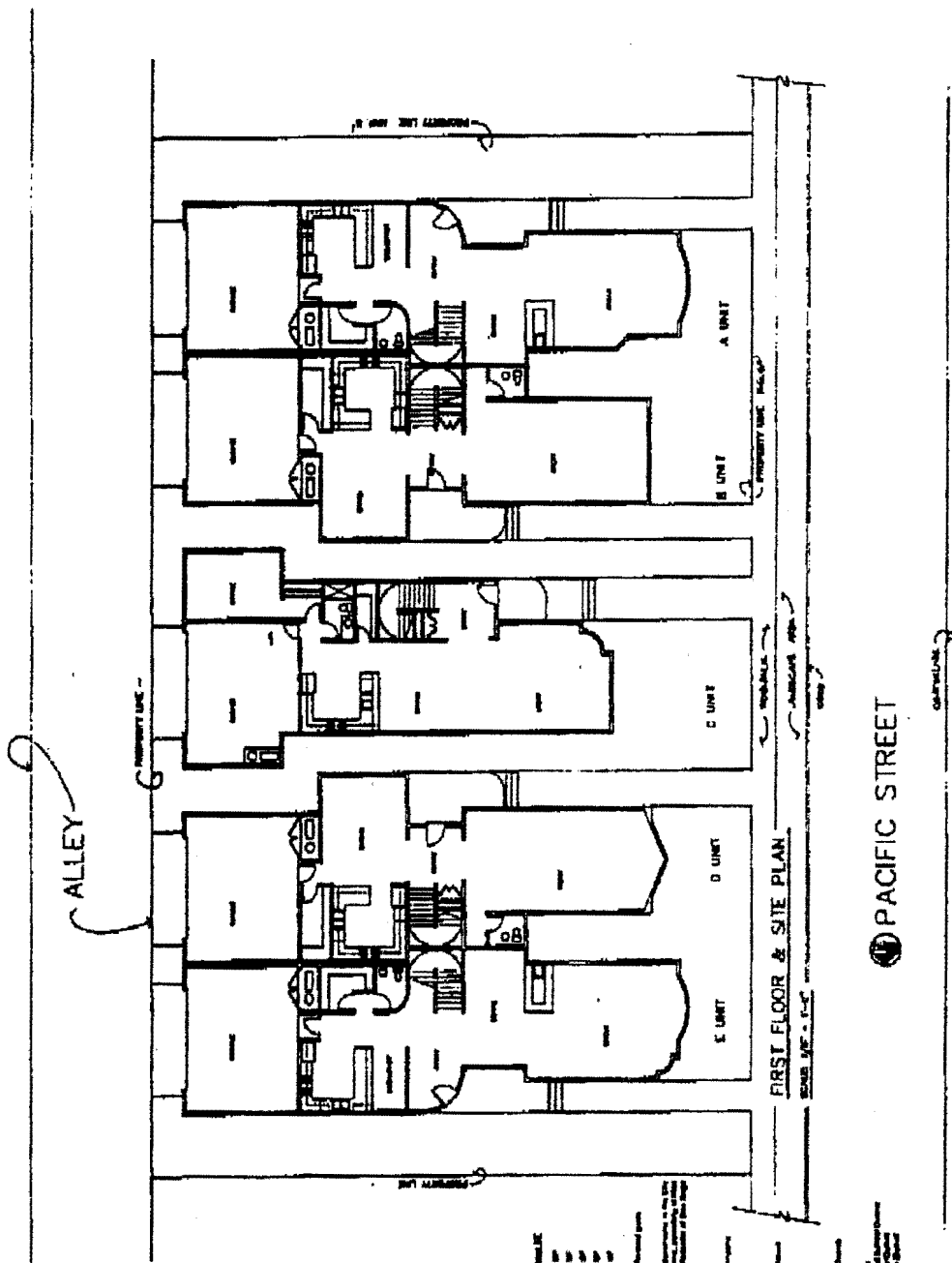
ARCHITECT
PALM LONDON
2000 PEARL DRIVE
OCEANAIDE, CA 93544
(818) 721-4484

NEW RESIDENCES
P.A. STREET
OCEANAIDE, CA

PROJECT
DATE SHEET
APRIL 27, 1998
REVISIONS

SHEET

1 of 1



PERMITS INFORMATION

NO.	DATE	DESCRIPTION	STATUS	DATE
1	10/10/97	Initial Application	Approved	10/10/97
2	11/10/97	Revised Application	Approved	11/10/97
3	12/10/97	Final Application	Approved	12/10/97
4	01/10/98	Construction Permit	Issued	01/10/98
5	02/10/98	Final Inspection	Completed	02/10/98

NOTES:

- The building is to be constructed in accordance with the approved plans.
- The building is to be constructed in accordance with the approved plans.
- The building is to be constructed in accordance with the approved plans.
- The building is to be constructed in accordance with the approved plans.
- The building is to be constructed in accordance with the approved plans.

APPROVED: [Signature]

DATE: 02/10/98

BY: [Signature]

EXHIBIT NO. 2

APPLICATION NO.

A-6-OCN-98-111

Site Plan

California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Louis Taschner
1533-D S. Coast Hwy.
Oceanside, CA 92054 (760) 722-4470
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: Community Development Commission, City of Oceanside

2. Brief description of development being
appealed: 5 single family houses on a 166' parcel of land
100' in depth

3. Development's location (street address, assessor's parcel
no., cross street, etc.): 506-512 S. Pacific St.
Oceanside, CA

4. Description of decision being appealed:

- a. Approval; no special conditions: Exception to height limitation
of 27' in District 5A
- b. Approval with special conditions: _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-98-111

DATE FILED: 8/28/98

DISTRICT: _____

RECEIVED

SEP 10 1998

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 3

APPLICATION NO.

A-6-OCN-98-111

Appeal form and
attachment

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California Coastal Commission

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

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

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. xxOther COMMUNITY DEVELOPMENT COMMISSION
CITY OF OCEANSIDE

6. Date of local government's decision: August 19, 1998

7. Local government's file number (if any): RC 200-98

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

ZDI, INC. C/O Paul Zocco
30001 Via Maria Elena
Bonsall, CA 92003

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

- (1) Nancy Boyer
608 So. Pacific St.
Oceanside, CA 92054
- (2) _____

- (3) _____

- (4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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

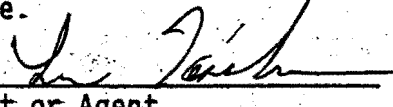
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Additional regulation N(1)(c) of Article 12 of the Zoning Ordinance restricts height along the east side of Pacific St. in District 5A to 27' without approval of a conditional use permit. Section 3018 allows exceptions to height limits provided they are accessory to the building. Section 3018 should not apply to District 5A, but even if it does, a clerestory is not listed as an exception. (See attached letter sent to Coastal on August 26, 1998.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

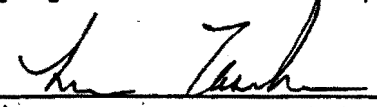
SECTION V. Certification

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

Signed 
Appellant or Agent

Date 9/9/98

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed 
Appellant

Date 9/4/98

FROM: LOUIS TASCHNER
128 SO. PACIFIC ST.
OCEANSIDE, CA 92054

TO: COASTAL COMMISSION
SAN DIEGO DISTRICT OFFICE
CAMINO DEL RIO NORTH
SUITE 200
SAN DIEGO, CA 92108-1725

RE: CITY OF OCEANSIDE REGULAR COASTAL PERMIT RC-200-98

DEAR SIR:

I wish to appeal the decision to approve Regular Coastal Permit RC-200-98 in that the project exceeds the height of 27' in Redevelopment District 5A.

The Redevelopment Commission approved the project which contained a roof popout to provide a "clerestory" wherein the height of the roof over the stairway, hall, and entryway to the master bedroom and deck on the second floor was in excess of the 27' height limitation for District 5A.

The staff report states this popout is a "cupola". Websters Dictionary defines a "cupola" as a small structure built on top of a roof or building for a lookout, to complete a design etc. This feature if it was a "cupola" could be allowed under Section 3018 which provides for certain structures "covering not more than 10 percent of the ground area covered by the structure to which they are accessory" to exceed the maximum permitted height in the district in which the site is located.

The "cupola" is not a cupola by any architectural definition and is not accessory to the structure because it is the main roof area over a portion of the second floor.

This issue is not insignificant in that most residential properties in Oceanside, which have the ability to impact public and private viewsheds to the ocean are subject to 3018 and could use this project as an example. Incursions into the height envelope by development should only be allowed under the most stringent conditions, not stretching interpretation of words.

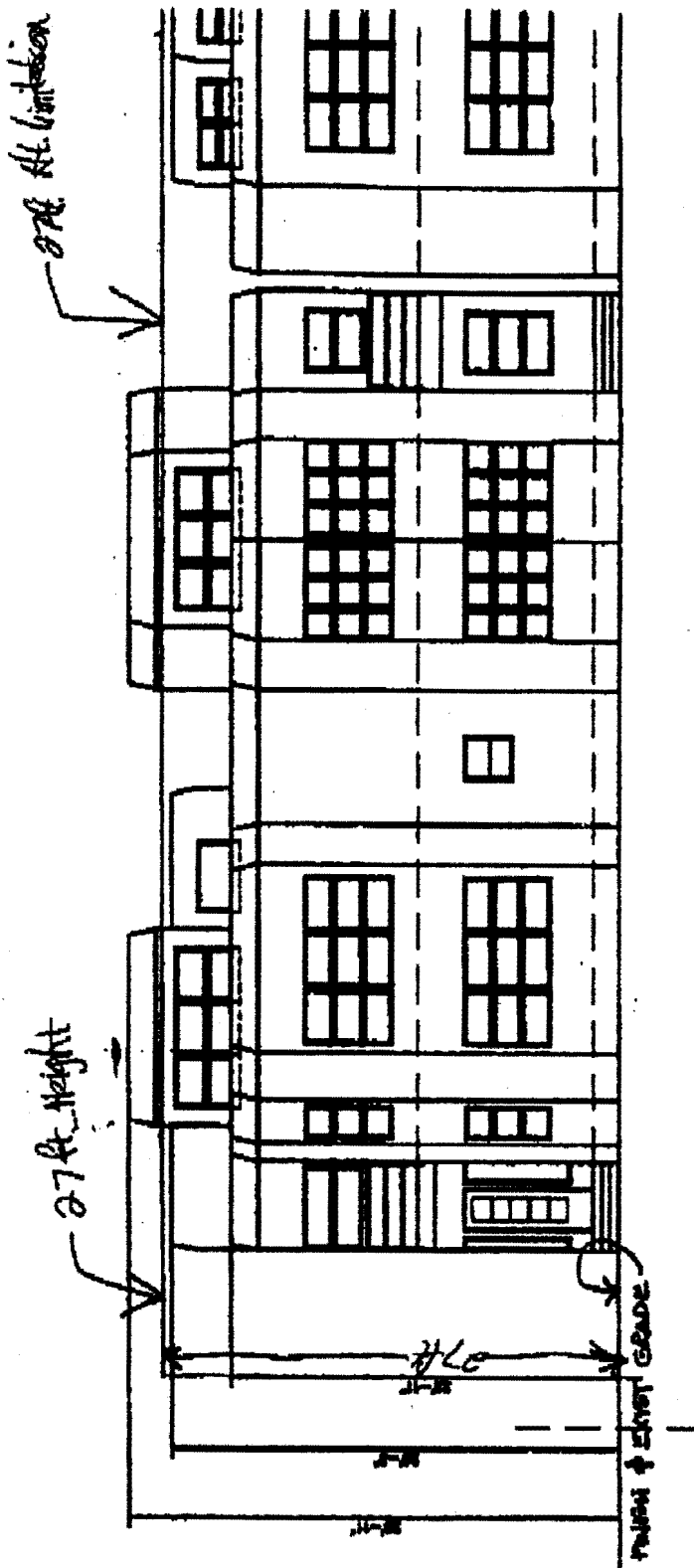
Notwithstanding the design criteria for height to be compatible with the "neighborhood", the interpretation by Redevelopment Staff and approved by the Redevelopment Agency/City Council, that 3018 includes "popout roofs" would open the door for the next development to push the height envelope claiming that it is a matter of right for consideration by precedent.

Respectfully Submitted,


LOUIS TASCHNER

EAST (ALLEY) ELEVATION

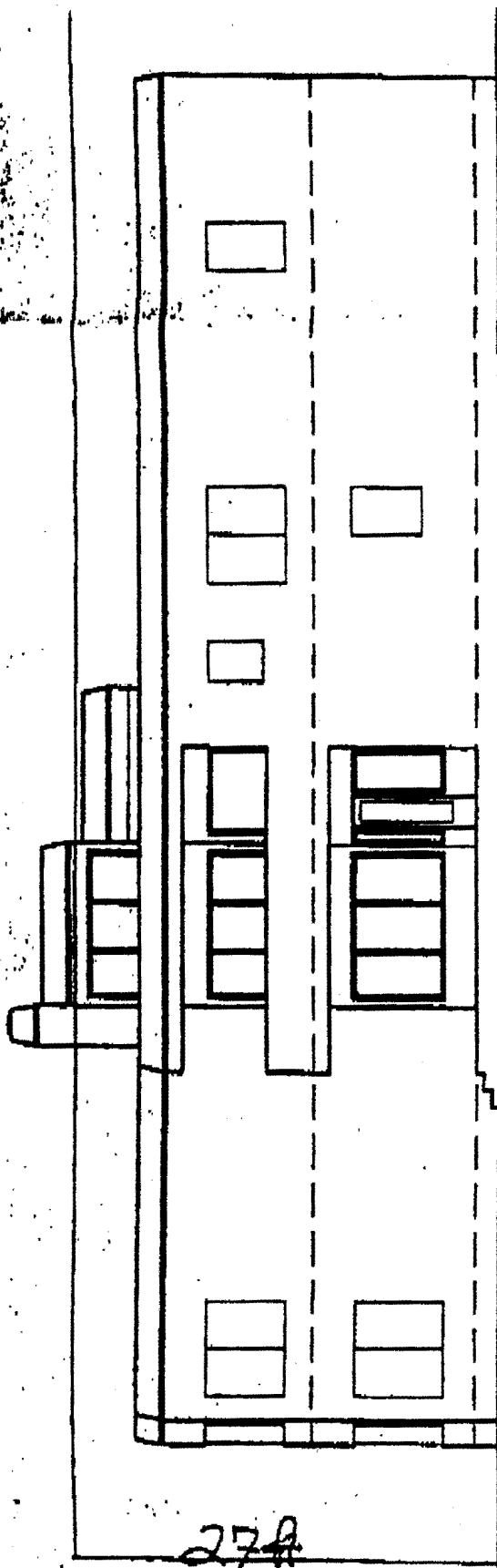
SCALE = 1/8" = 1'-0"



WEST (STREET) ELEVATION

SCALE: 1/8" = 1'-0"

EXHIBIT NO. 4
APPLICATION NO. A-6-OCN-98-111
Elevations
Page 1 of 2
California Coastal Commission

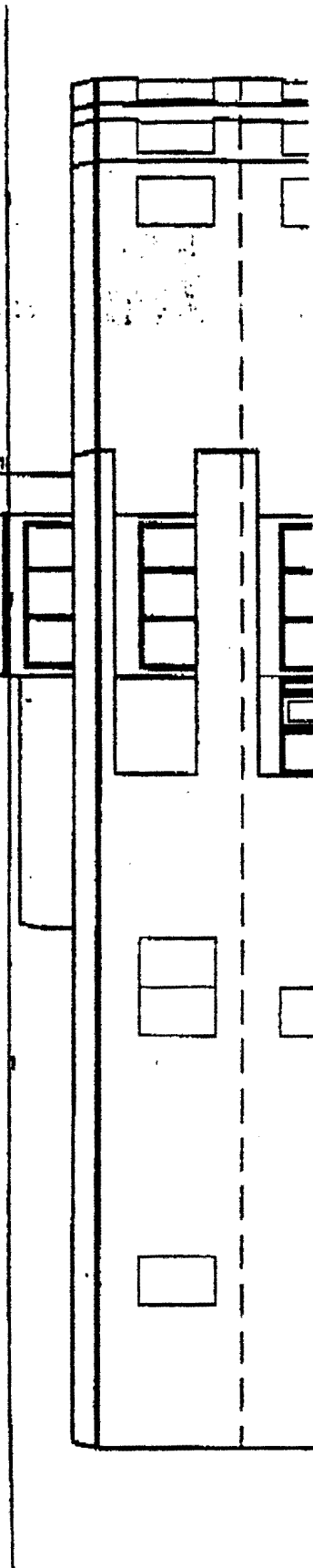


278

SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

408



278

