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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
(562) 590-5071



Filed: 9/23/99
49th Day: 11/11/99
Staff: CP-LB
Staff Report: 10/14/99
Hearing Date: November 5, 1999
Commission Action:

STAFF REPORT: APPEAL
NO SUBSTANTIAL ISSUE

- LOCAL GOVERNMENT:** City of Manhattan Beach
- LOCAL DECISION:** Approval with Conditions
- APPEAL NUMBER:** A-5-MNB-99-369
- APPLICANT:** Martin J. McSorley
- AGENT:** Elizabeth Srour, Srour & Associates
- PROJECT LOCATION:** 216-220 The Strand, City of Manhattan Beach, Los Angeles Co.
- PROJECT DESCRIPTION:** Appeal of City of Manhattan Beach local coastal development permit approving the demolition of a ten-unit apartment building.
- APPELLANT:** Robin Olney
- SUBSTANTIVE FILE DOCUMENTS:** Local Coastal Development Permit No. CA 99-26 (M.McSorley). City of Manhattan Beach Certified Local Coastal Program (LCP).

SUMMARY OF STAFF RECOMMENDATION

The appellant requests that the demolition of an architecturally unique apartment building be denied or postponed in order for the State Office of Historic Preservation to consider whether the structure is architecturally significant. The City of Manhattan Beach certified Local Coastal Program (LCP), however, does not contain any provisions to protect potentially historic or architecturally significant structures from demolition. Furthermore, the structure has not been deemed by any local or state jurisdiction to be important to the history, architecture or culture of the area.

Therefore, the staff recommends that the Commission, after public hearing, determine that the appeal raises no substantial issue because the locally approved coastal development permit fully conforms to the certified LCP and the public access policies of the Coastal Act. The motion to carry out the staff recommendation is on page 5.

I. APPELLANT'S CONTENTIONS

On August 11, 1999, after a public hearing, the Manhattan Beach Planning Commission unanimously approved with conditions Local Coastal Development Permit No. CA 99-26 for the demolition of an existing multi-family development totaling ten residential units located at 216/220 The Strand (Exhibit #1). City records show that the apartment building was constructed in 1941. The local coastal development permit approval is for demolition only, as no development plans have been proposed for the two beachfront lots at this time (Exhibit #4). No appeal was filed at the local level, however, the Manhattan Beach City Council affirmed the Planning Commission's approval at its September 7, 1999 meeting.

On September 23, 1999, Robin Olney submitted an appeal of the City's approval of Local Coastal Development Permit No. CA 99-26 to the Commission's office in Long Beach (Exhibit #2). The appellant contends that the ten-unit courtyard housing apartment building should not be demolished because it is one of Manhattan Beach's last remaining examples of the streamline moderne architectural style that was popular in Southern California in the 1930's and 40's. The appellant's appeal states:

1. The City of Manhattan Beach did not fulfill its California Environmental Quality Act (CEQA) obligations to evaluate the structure for eligibility for the California Register of Historical Places.
2. Pursuant to CEQA requirements, the City of Manhattan Beach should have prepared an Initial Study and a Negative Declaration for public comment.
3. The structure is currently undergoing consideration as an architecturally significant site by the State Office of Historical Preservation.
4. The City of Manhattan Beach should have hired an outside consultant to properly evaluate the structure for historical or architectural importance.

On September 30, 1999, one week after the close of the appeal period, the appellant submitted an addendum to the appeal (Exhibit #7). However, once the appeal period has ended, the appellant may not raise new issues.

II. LOCAL GOVERNMENT ACTION

According to the City's staff report dated September 7, 1999, the applicant submitted an application on June 11, 1999 to demolish all existing residential development on two adjoining beachfront lots (Exhibit #1). A public hearing held by the Manhattan Beach Planning Commission on August 11, 1999 included testimony on the issue of historic preservation from the appellant, the applicant's representative, and a representative of the

Manhattan Beach Historical Society. Subsequent to the public testimony, the Planning Commission unanimously approved Resolution No. PC 99-22 and Local Coastal Development Permit No. CA 99-26 for the demolition of an existing multi-family development totaling ten residential units located at 216/220 The Strand (Exhibit #4). The Planning Commission found that the proposed project is consistent with the certified LCP, would have no impact upon coastal access or public recreational opportunities, and that the project is exempt from the provisions of CEQA (Exhibit #4). There was no appeal was filed at the local level, and the Manhattan Beach City Council affirmed the Planning Commission's approval at its September 7, 1999 meeting. The City has issued a Notice of Categorical Exemption for the proposed project pursuant to Section 15061(b)(3) of CEQA (Exhibit #4, p.7).

On September 9, 1999, the City's Notice of Final Local Action for Local Coastal Development Permit No. CA 99-26 was received in the Commission's Long Beach office. The Commission's ten working day appeal period was then established and noticed. On September 23, 1999, the last day of the appeal period, the Commission received the appeal of the City's approval (Exhibit #2).

III. APPEAL PROCEDURES

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

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

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

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:

- (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greatest distance.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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

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

"I move that the Commission determine that Appeal No. A-5-MNB-99-369 raises No Substantial Issue with respect to the grounds on which the appeal has been filed."

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

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

Local Coastal Development Permit No. CA 99-26 approves the demolition of an existing multi-family development totaling ten residential units located at 216/220 The Strand (Exhibit #4). According to the appellant, the courtyard housing apartment building is one of the last remaining examples of the streamline moderne architectural style that was popular in Southern California during the 1930's and 40's. City records show that the structure was constructed in 1941. The local approval is for demolition only. No development plans have been proposed for the two beachfront lots.

The project site consists of two contiguous beachfront lots that are separated from the sand by a bike path and The Strand, a pedestrian right-of-way (Exhibit #1). Vertical access to The Strand and the beach is provided from inland areas on 3rd Street, a walk-street on the north side of the site. The residential lots situated on the inland side of The Strand are developed primarily with duplexes and single family residences. The recent pattern of development along The Strand has resulted in the demolition of many older single family residences and multi-family dwellings, and replacement by large single family residences.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. The grounds for an appeal identified in Public Resources Code section 30603 are limited to whether the development conforms to the standards in the certified LCP and to the public access policies of the Coastal Act.

The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appellant raises no significant questions". In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that no substantial issue exists for the reasons set forth below.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public

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

In this case, the appellant does not allege that the approval of the proposed project is inconsistent with either the certified LCP or the public access policies of the Coastal Act. Instead, the appellant contends that the City's approval of the proposed project does not conform to the requirements of CEQA, and that the City did not properly consider the historic importance of the structure that is proposed to be demolished. Specifically, the appellant contends that:

1. The City of Manhattan Beach did not fulfill its California Environmental Quality Act (CEQA) obligations to evaluate the structure for eligibility for the California Register of Historical Places.
2. Pursuant to CEQA requirements, the City of Manhattan Beach should have prepared an Initial Study and a Negative Declaration for public comment.
3. The structure is currently undergoing consideration as an architecturally significant site by the State Office of Historical Preservation.
4. The City of Manhattan Beach should have hired an outside consultant to properly evaluate the structure for historical or architectural importance.

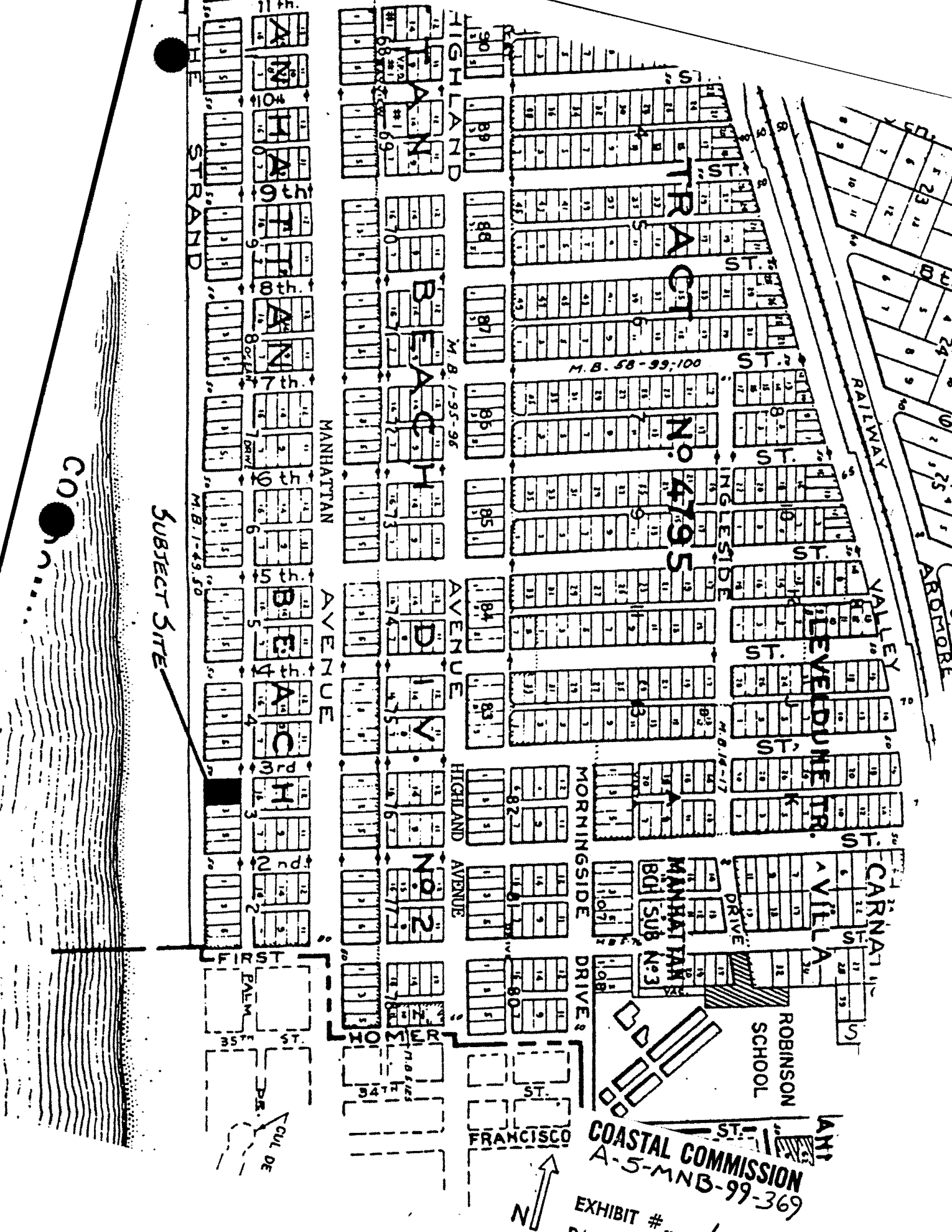
The Commission's appellate jurisdiction is limited to the types of development described in Public Resources Code Section 30603(a) and the grounds described in Section 30603(b). The Commission does not have an independent authority under the Coastal Act to declare a site a historical resource. Consequently, on appeal, the Commission considers only whether the appeal raises issues of consistency with the certified LCP or, in specific cases, the public access policies of the Coastal Act. These are not the grounds asserted by the appellant. Thus, because the appellant does not allege that the City's action is inconsistent with either the certified LCP or the public access policies of the Coastal Act, the appellant fails to allege valid grounds for appeal. Moreover, even if the appellant had alleged valid grounds for an appeal consistent with Section 30603 of the Coastal Act, the certified LCP does not contain any provisions to protect potentially historic or architecturally significant structures from demolition (Exhibit #5).

In addition, the City of Manhattan Beach Planning Commission held a public hearing and considered public testimony relating to the architectural and historical significance of the structure subject to this appeal. The City states that there was no evidence presented at the public hearing that supports the appellant's claim that the structure is historic or architecturally significant (Exhibit #4). Furthermore, the structure has not been deemed by any local or state jurisdiction to be important to the history, architecture or culture of the area (Exhibit #6).

Therefore, the staff recommends that the Commission determine that the proposed project is in compliance with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act, and find that no substantial issue exists with respect to the grounds of the appeal.

In conclusion, the proposed project and the City's coastal development permit for the proposed project are in compliance with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act. Therefore, the proposed project, as approved and conditioned by City of Manhattan Beach Local Coastal Development Permit No. CA 99-26, will not have a significant effect on coastal access or coastal resources. Furthermore, the appellant's assertion that the proposed project violates the California Environmental Quality Act (CEQA) and is historically significant is not a valid ground for appeal consistent with Section 30603 of the Coastal Act. Therefore, the Commission finds that the appeal raises no substantial issue.

End/cp



THE STRAND
M.B. 1-49.50
M.B. 1-95-96
M.B. 58-99-100
M.B. 18-17
M.B. 1-49.50

HIGHLAND AVENUE
MANHATTAN AVENUE
MORNINGSIDE DRIVE
HIGHLAND AVENUE

TRAVIS ST.
INGLESIDE ST.
EVE DUNE TR.
CARNATION ST.
MORNINGSIDE DRIVE
MANHATTAN DRIVE
MORNINGSIDE DRIVE

SUBJECT SITE

COASTAL COMMISSION
A-5-MNB-99-369



EXHIBIT #

ROBINSON SCHOOL

FRANCISCO ST.

ANT

CUL DE SAC

CO

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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.)

THE CITY OF MANHATTAN BEACH DID NOT FULFILL ITS CEQA OBLIGATIONS IN PROPERLY EVALUATING THIS PROPERTY AGAINST THE CRITERIA OF ELIGIBILITY FOR THE CALIFORNIA REGISTER OF HISTORICAL RESOURCES, PURSUANT TO CEQA GUIDELINES, SECTION 15064.5 (a3). PURSUANT TO THE LOCAL COASTAL PLAN - A. 96.030, PG. 96-3, PARAGRAPH J - "HISTORIC STRUCTURE" MEANS, IN ACCORD WITH THE HEALTH

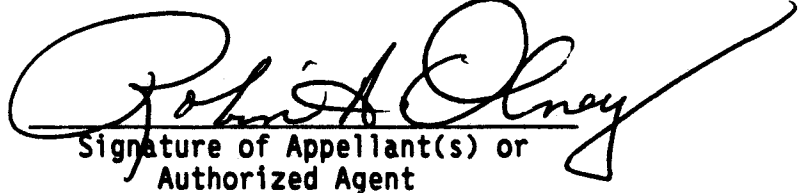
Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or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

(CONTINUED)

attached

SECTION V. Certification

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


Signature of Appellant(s) or
Authorized Agent

Date Sept. 23, 1999

Appellant's Statement

COASTAL COMMISSION
A-5-MNB-99-3

EXHIBIT # 2

PAGE 1 OF 4

REASONS FOR APPEAL, CONTINUED:

.... AND SAFETY CODE SECTION 18955, ANY STRUCTURE, COLLECTION OF STRUCTURES, AND THEIR ASSOCIATED SITES DEEMED OF IMPORTANCE TO THE HISTORY, ARCHITECTURE OR CULTURE OF ANY AREA BY AN APPROPRIATE LOCAL OR STATE GOVERNMENTAL JURISDICTION. THIS DEFINITION SHALL INCLUDE STRUCTURES ON EXISTING OR FUTURE NATIONAL, STATE, OR LOCAL HISTORICAL REGISTERS

THIS PROPERTY IS CURRENTLY UNDERGOING CONSIDERATION AS AN ARCHITECTURALLY SIGNIFICANT SITE VIA THE STATE OFFICE OF HISTORIC PRESERVATION.

BY DENYING THE ABILITY OF THIS PROJECT TO GO THROUGH THE CEQA PROCESS, THE PUBLIC IS DENIED THE ABILITY TO FULLY UNDERSTAND THE IMPACTS OF, AND ALTERNATIVES TO, THE PROPOSED DEMOLITION. IN ADDITION, IT HAS DENIED THE PUBLIC THE RIGHT TO SUGGEST MITIGATIONS TO COMPENSATE FOR THE LOSS OF THE PROPERTY.

THE CITY OF MANHATTAN BEACH SHOULD HAVE PREPARED AN INITIAL STUDY, AND A NEGATIVE DECLARATION FOR PUBLIC COMMENT. IT FAILED TO DO THIS, AS WELL AS FAILING TO DOCUMENT ITS SEARCH FOR HISTORICAL RAMIFICATIONS, IF IT PERFORMED A SEARCH AT ALL.

IF THE CITY LACKS THE PROFESSIONALLY QUALIFIED STAFF TO PROPERLY EVALUATE THE PROPERTY AGAINST THESE CRITERIA, THEY SHOULD HAVE HIRED AN OUTSIDE CONSULTANT.

THE CITY SHOULD PROVIDE, AS WELL, AN ACTUAL FULL DOCUMENTATION OF THIS RESOURCE, WHICH IT HAS ALSO FAILED TO DO.

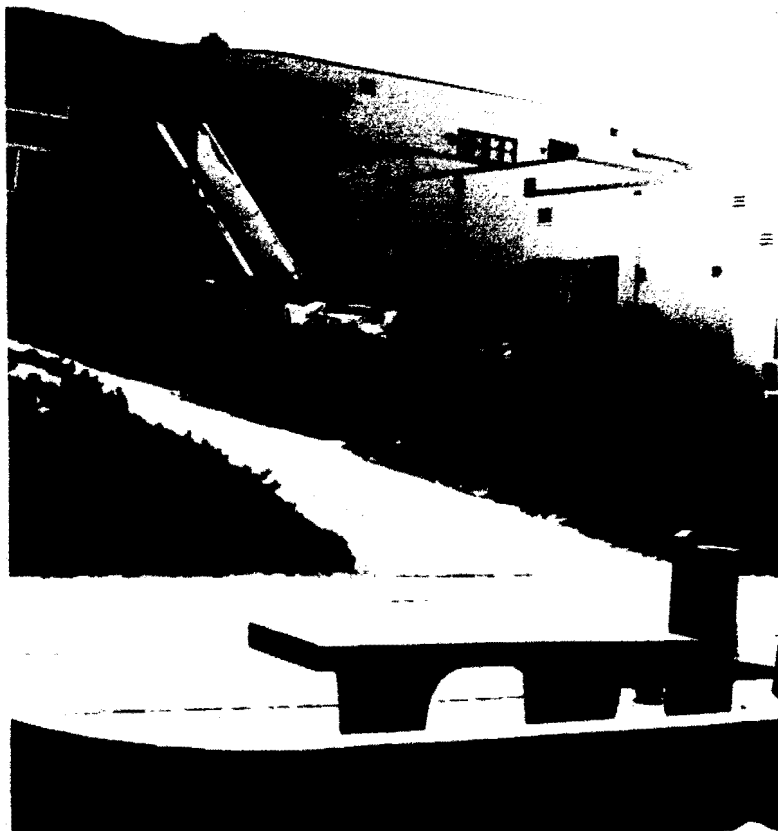
FIND ATTACHED: 4 PAGE EXHIBIT

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 2
PAGE ... 2 ... OF ... 4 ...



216/220 The Strand

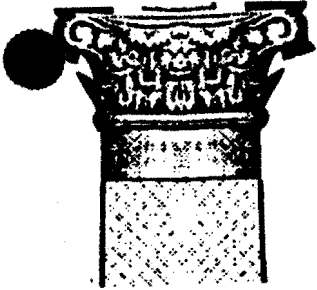


COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 2

PAGE 3 OF 4

Venice
Historical
Society



P.O. Box
12844
Venice
California
90295

(310)
967-5170

Fax
(310)
305-7078

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South Coast Region

August 26, 1999

SEP 23 1999

CALIFORNIA
COASTAL COMMISSION

To whom it may concern,

Venice Historical Society would like it to be known that, by a unanimous vote of our Board of Governors, we support Robin Olney's project of restoration and renovation of the 1940s housing complex on the strand in Manhattan Beach. Too much of Southern California's beach heritage is being demolished at the hands of developers and we labor tenaciously to protect any historic property that we are able to save.

On a personal note, I would like to add that as an historian who was born and raised in the east, I am appalled at the lack of respect for heritage in this part of the country. This is a *tear down and rebuild* society, with monetary gain as the only motivation. We had fought to preserve our history in Venice and have been largely successful.

The motto of the Venice Historical Society is:

"What your forefathers attained with difficulty, do not basely relinquish." *Governor William Bradford, Plymouth Colony.* (Pilgrim Father and the 5th great-grandfather of Abbot Kinney, founder of Venice).

Thanks for your kind attention.

Most sincerely,

C. Elaine Alexander, President
Venice Historical Society

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 2
PAGE 4 OF 4

September 26, 1999

CA COASTAL COMMISSION
ATTN: CHARLES POSNER, COASTAL PROGRAM ANALYST
200 Oceangate, 10th Floor
Long Beach, CA 90802

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South Coast Region

SEP 27 1999

CALIFORNIA
COASTAL COMMISSION

SUBJECT: Application No. 5-MNB-99-151
216-220 The Strand, Manhattan Beach (McSorley)

Dear Mr. Posner:

This letter is submitted to you on behalf of the Applicant for the above referenced permit. The application to demolish the existing apartment complex was approved by the MB Planning Commission in a public hearing of August 11, 1999. The decision was subject to a 10 day appeal period at the local level and forwarded to the City Council for their consideration on September 7, 1999. No appeal was filed at the local level and there was no public effort to petition the City Council to reverse the Planning Commission's approval. Testimony was accepted at the Planning Commission, including that of Robin Olney who requested that the Commission deny the property owner's application to demolish the existing structures. In addition, representing the MB Historical Society, Bonnie Beckerson, also spoke in support of the property owner's request to demolish his property as did others.

I am informed that an appeal of the City's decision was filed at the close of the last day of the ten day appeal period at the Coastal Commission, and that the appeal is based on the issue of "historic preservation".

It is our belief that this appeal is unwarranted and should not be entertained by the Coastal Commission for three reasons:

1. The issue of historic preservation is the responsibility of the local lead agency and does not fall under the purview of the Coastal Commission. The Coastal Commission does not have the independent authority under the Coastal Act to declare a site as a historical resource.

With reference to the appellant's statements that the City did not fulfill its obligations under the CEQA guidelines, the City Staff and the Planning Commission determined that the project is EXEMPT from provisions of CEQA (paragraph E. of Resolution No. PC 99-22, attached).

Furthermore, the State of CA, through CEQA, does state that a lead agency MAY consider a property a cultural resource, even though it is not on a list or survey, but a lead agency is NOT REQUIRED or forced to do so by statute. In fact, the CEQA guidelines (Section 21084.1) actually identifies the lead agency through its City Council as the authority by which to establish decisions and policies with regard to preservation. The City of Manhattan Beach has established policies for review of all development, and in fact has an approved Local Coastal Plan by which it reviews all development applications in the Coastal Zone. These established procedures were observed during the City Staff review of the subject application, and by the Planning Commission in a public forum.

COASTAL COMMISSION
A-5-MNB-99-369

Applicant's Statement

EXHIBIT # 3

PAGE 1 OF 2

The appellant in this case did not utilize all opportunities available to the community to petition her position. As a local issue, the appellant should have petitioned the City Council to consider her request. The appellant had the opportunity to file an appeal with the City Council or to enlist the support of the Council to file their own appeal.

2. The appeal request does not meet the criteria of Section 30603.(b) of the Coastal Act regulating appeals in which it states: "(b)(1) *The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*" There is no aspect of the project that is in conflict with the certified local coastal program (LCP) or that will impede public access to the beach. In addition, this project will in no way compromise the ability of the City of MB to enforce the guidelines as set forth in the LCP.

3. The CA Coastal Act identifies policies and standards that must be met when approving development projects. The City found the project to comply with all Coastal Act policies relevant to this situation, including the most obvious and most frequently promoted Coastal Act standard, namely: ***Protection and expansion of public access to the shoreline and recreational opportunities and resources.*** The proposed demolition is on private property, in a developed residential area, and will have no influence whatsoever upon public access or recreational opportunities and resources.

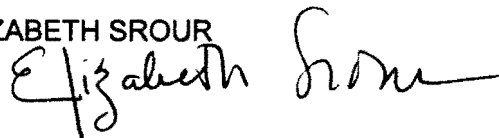
Finally, the subject property is not situated within a "special community" as identified in the Coastal Act (Section 30253). In fact, the property is grossly nonconforming to most development standards as set forth in the LCP and local zoning ordinances (including parking, density of units and setbacks). Also, because of the age of the structure, and the fact that previous owners did not maintain the integrity of the units, the basic utility components are in need of major upgrading.

There is absolutely no reasonable basis under which this appeal should be entertained by the Coastal Commission. The appellant has not provided any grounds for appeal; she has referenced interested individuals, including a former MB Councilwoman, who never made their concerns known in the public review procedures at the local level.

In conclusion, the project is in compliance with the LCP and policies set forth in the Coastal Act; the appeal request is based on an issue that falls under the jurisdiction of the Local Lead Agency and not the California Coastal Commission; the project was properly reviewed and approved in a public forum at the local level; and the appellant did not exercise her rights as provided for by the statutes of the City of Manhattan Beach. ***The action taken by the City raises no substantial issue as to conformity with the LCP; therefore the grounds for appeal to the Coastal Commission cannot be substantiated and should be denied.***

Respectfully,

ELIZABETH SROUR



attach: Resolution PC99-22
cc: Martin J. McSorley
Bobby Ray, Senior Planner

coastal\mb\216\costl-1.

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 3

PAGE 2 OF 2



City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 545-5621 FAX (310) 545-5234 TDD (310) 546-3501

September 27, 1999

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SEP 28 1999
CALIFORNIA
COASTAL COMMISSION

Mr. Charles Posner, Coastal Program Analyst
California Coastal Commission, South Coast Area
200 OceanGate, 10th Floor
Long Beach, CA. 90802-4302

RE: Appeal of Coastal Development Permit No.CA 99-26 (216 / 220 The Strand)

Dear Mr. Posner,

Pursuant to the above-referenced notification of appeal, the City of Manhattan Beach would like to submit the enclosed materials regarding the proposed permit. All materials used by the City in reaching its determination are included in the submittal.

In response to the appeal filed by Ms. Robin Olney, the Community Development Department would like to provide the following response:

- Regarding Section III b., none of the identified parties participated in the public hearing process at the Planning Commission or City Council level. Additionally none of the identified parties have submitted any written material to the Department staff regarding this application, nor provided any verbal testimony.
- The basis of this appeal is the City's alleged failure to "fulfill it's CEQA obligations". This does not address the issuance of the Coastal Development Permit, nor the adequacy of the Permit findings. The issue of local CEQA compliance does not immediately appear to be the responsibility of the California Coastal Commission.
- The appellant quotes Health and Safety Code Section 18955 regarding the definition of an 'historic structure'. However, no evidence was ever presented by the appellant nor any other party to suggest that the structure in question has any historical or architectural significance. No evidence was ever presented to suggest that this property is under any consideration as an architecturally significant site.
- The appellant states that due to the alleged failure of the City to adequately perform it's CEQA responsibilities the public has been denied the ability to fully understand the ramifications of this proposed action. Staff would like to point out that the proposal was a fully advertised and noticed public hearing. The proposed CEQA determination was included in the published and mailed

Fire Department Address: 400 15th Street, Manhattan Beach, CA 90266 FAX (310) 546-7707
Police Department Address: 420 15th Street, Manhattan Beach, CA 90266 FAX (310) 545-7707
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 546-1752

City's Statement

EXHIBIT # 4

PAGE 1 OF 7

A-5-MNB-99-368
COASTAL COMMISSION

notification. The public was adequately afforded the opportunity to inform themselves of this application, and invited to participate in the public hearing process. As indicated by the enclosed minutes from the Planning Commission hearing, the only party speaking in favor of preserving the structure is the appellant.

- With respect to the question of the professional qualifications of the staff to properly evaluate the historical aspects of this site, staff would like to reiterate the statement that at no time during the application process has anyone presented any evidence that this site is of any architectural or historic value. Staff's research uncovered that building permits were issued for the construction of this development in 1941. No other records were found with respect to this property.
- There is no local, County, State, nor Federal designation of this site as historical nor architecturally significant. If some evidence had been presented to staff which substantiated the significance of this structure then a detailed study may have been initiated and appropriate mitigation measures considered. It is staff's opinion, as supported by the Planning Commission and City Council, that the structure is relatively old (1941) and unusual in relation to surrounding development, but not significantly important enough to warrant a full historical or archaeological investigation. As reflected in the Planning Commission minutes a representative from the Manhattan Beach Historical Society was present at the hearing, and spoke on the subject application. No opposition to the proposed demolition was expressed by this representative.
- Based upon the information presented, it was the determination of staff that this project (demolition) was an action that had no possibility to create a significant impact upon the environment. Pursuant to this determination the project was exempted from CEQA review subject to Section 15061 (b)(3) of the CEQA Guidelines. This CEQA determination was reflected in the public notices provided. Staff would like to point out that at no time in the process of this Coastal Development Permit was the adequacy of the CEQA determination presented to staff, Planning Commission or City Council.

As reflected in the minutes of the Planning Commission meeting there was no discussion of requiring a full environmental evaluation of the subject site. If the appellant felt that the site warranted an exhaustive evaluation this request should have been presented to the Planning Commission. The Commission could have directed staff to undertake such a study, and possibly sought the assistance of outside consultants. As documented, this was never presented as an issue.

In closing, the City would like to point out that the appellant did not exhaust the local appeal process prior to submittal to the Coastal Commission. A process for appeal of the Planning Commission's decision to the City Council was available, but was not utilized. If the appellant does not wish to pay an appeal fee and follow the normal appeal procedure, the City Council offers an opportunity for anyone in attendance to remove items from the meeting agenda Consent Calendar for consideration of appeal. This process does not involve any payment of fees for the individual requesting the removal. However, this action does not provide any guarantee that the Council will agree with the appeal request. In the subject case the appellant did not make any such request at the local level.

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 4
PAGE 2 OF 7

RESOLUTION NO. PC 99 - 22

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING MULTI-FAMILY DEVELOPMENT TOTALING TEN (10) RESIDENTIAL UNITS LOCATED AT 216 / 220 THE STRAND (McSorley)

RECEIVED
South Coast Region

SEP 28 1999

CALIFORNIA
COASTAL COMMISSION

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law to consider an application for a Coastal Development Permit to allow the demolition of an existing multi-family development on the property legally described as Lots 1 and 2, Block 3, Manhattan Beach Tract (APN No. 4180-019-002), located at 216 / 220 The Strand in the City of Manhattan Beach.
- B. The subject location is within the City of Manhattan Beach Coastal Zone (Appealable Jurisdiction) and is subject to the City of Manhattan Beach Local Coastal Program.
- C. The applicant for said Coastal Development Permit is Martin McSorley, property owner.
- D. The public hearing was advertised pursuant to applicable law, testimony was invited and received on August 11, 1999.
- E. The project is exempt (Class 3) from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (a) of the CEQA Guidelines.
- F. The applicant requests approval of a Coastal Development Permit to allow the demolition of an existing multi-family development, totaling ten (10) residential dwelling units on the property located at 216/220 The Strand.
- G. The City's Certified Local Coastal Program (Section A.96.030) defines demolition as "development" requiring issuance of a Coastal Development Permit.
- H. The property location in the Appeal Jurisdiction of the City's Coastal Zone requires that the Coastal Development Permit be subject to a public hearing.
- I. The property is located within Area District III (Beach Area) and is zoned "RM", (Residential Medium Density). The adjacent land uses are also located within the "RM" zoning district.
- J. The General Plan and Local Coastal Plan designation for the property is "Residential Medium Density".
- K. The proposed use is consistent with the policies of the General Plan for the Area District in which the property is located.
- L. The proposed project complies with the findings required for issuance of a Coastal Development Permit, pursuant to Section A.96.150 of the Local Coastal Program, as follows:
 - 1. The project, as presented and approved, conforms with the City of Manhattan Beach Local Coastal Program;

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 4

PAGE 4 OF 7

RESOLUTION NO. PC 99 - 22

2. The project will not have any impact upon public coastal access nor public recreational opportunities.

Section 2. The Planning Commission of the City of Manhattan Beach hereby APPROVES the subject Coastal Development Permit subject to the following conditions:

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 Community Development Department.
2. **Expiration.** The Coastal Development Permit shall expire one-year from the date of approval if the project has not been commenced during that time. The Director of Community Development may grant a reasonable extension of time for due cause. Said time extension shall be requested in writing by the applicant or authorized agent prior to the expiration of the one-year period.
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 Director of Community Development.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Director of Community Development.
5. **Inspections.** The Community Development Department staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. A completed application and application fee as established by the City's Fee Resolution;
 - b. An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. Evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. The original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. A copy of the original permit showing that it has not expired.
7. **Terms and Conditions are Perpetual.** These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Standard Conditions:

1. This Resolution shall become effective when all time limits for appeal as set forth in LCP Section A.96.160 have expired.

RESOLUTION NO. PC 99 - 22

2. Applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, up to \$20,000, in defending any legal action brought against the City within 90 days after the City's final approval of the project, other than one by the Applicant, challenging the approval of this project, or any action or failure to act by the City relating to the environmental review process pursuant to the California Environmental Quality Act. In the event such a legal action is filed against the City, the City shall estimate its expenses for the litigation and Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of August 11, 1999 and that said Resolution was adopted by the following vote:

AYES: Chairman Kirkpatrick, Simon,
Milam, Ward

NOES: None

ABSTAIN: None

ABSENT: Kaplan



RICHARD THOMPSON,
Secretary to the Planning Commission



Sarah Boeschen
Recording Secretary

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 4
PAGE 6 OF 7



CEQA

City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 546-3501

NOTICE OF EXEMPTION

To: Project File No. CA 99-26 (216 & 220 The Strand)

Project Title: 216 & 220 The Strand - Coastal Development Permit

Project Location - Specific: 216 & 220 The Strand (APN # 4180-019-002)

Project Location - City: Manhattan Beach, CA. Project Location - County: Los Angeles

Description of Project: Coastal Development Permit to allow the demolition of an existing multi-family development totaling ten (10) residential units. Pursuant to Section A.96.030 I of the City of Manhattan Beach Local Coastal Program, "demolition" is defined as a development activity requiring issuance of a Coastal Development Permit.

Name of Public Agency Approving Project: City of Manhattan Beach

Name of Person or Agency Carrying Out Project: City of Manhattan Beach, Community Development Department

Exempt Status: (check one)

Ministerial (Sec. 21080(b)(1); 15268);

Declared Emergency (Sec. 21080(b)(3); 15269(a));

Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

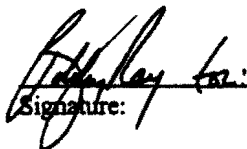
X Categorical Exemption. State type and section number: Section 15061(b)(3)

Statutory Exemptions. State code number:

Reasons why project is exempt: The project involves the demolition of an existing ten (10) unit residential development in the City's Coastal Zone. There is nothing associated with this proposal which could have a significant effect on the environment. Pursuant to Section 15061 (b)(3) of the CEQA Guidelines: "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". The existing structure has no known architectural nor historic significance which could be impacted by the proposed action. The site has no known archaeological significance which could be impacted by the proposed action.

Lead Agency: City of Manhattan Beach, Community Development Department

Contact Person: Bobby Ray, AICP, Senior Planner 310/802-5510


Signature:

Director of Community Development

Date: August 11, 1999

COASTAL COMMISSION
A-5-MNB-99-3

EXHIBIT # 4
PAGE 7 OF 7

Fire Department Address: 400 15th Street, Manhattan Beach, CA 90
Police Department Address: 420 15th Street, Manhattan Beach, CA 90
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA
City of Manhattan Beach Web Site: <http://www.ci.manhat>

A. Commercial Development

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

B. Residential Development

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

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

P.O. BOX 942896
SACRAMENTO, CA 94298-0001
(916) 653-9824 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov



September 27, 1999

Bobby Ray
Community Development Department
City of Manhattan Beach
1400 Highland Ave
Manhattan Beach CA 90266

Post-It* Fax Note	7871	Date	10/2/99	# of pages	2
To	CHARLES FOSNER	From	BOBBY RAY		
Co./Dept.	COASTAL COMM.	Co.	CITY OF M.B.		
Phone #		Phone #	310/802-5510		
Fax #	562-590-5087	Fax #			

Dear Mr. Ray:

216/220 The Strand

I am writing upon request from a constituent in Manhattan Beach who is concerned by the pending demolition of the apartment court at 216 The Strand in Manhattan Beach, for which a Notice of Exemption under CEQA Guidelines Section 15061(b)(3) has been prepared. Although it is appropriate to utilize such an exemption under CEQA for a property that is not considered a significant historical resource, I do not feel that the Notice of Exemption prepared for this project adequately explains how the property was evaluated and upon what basis it was found to have "no known architectural nor historic significance."

CEQA Guidelines, Section 15064.5(a)(3), state, "Generally, a resource shall be considered by the lead agency to be 'historically significant' if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR, Section 4852)." The Guidelines go on to state, "The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5034.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code section 5020.1(j) or 5024.1." (CCR, Section 15064.5(a)(4))

The Notice of Exemption for this demolition does not indicate whether the property was evaluated against the criteria for listing on the California Register of Historical Resources, and therefore it could be construed that the property was simply compared against inventories, in which it is not currently included, and this served as the basis for the evaluation. If this were to be the case, then this would constitute an inadequate evaluation. While there is every possibility that the building would not meet the California Register eligibility criteria, in the interest of providing as much information as possible to decision makers responsible for issuing the demolition permit, it is important to include data regarding the way in which the property was evaluated for historic significance.

COASTAL COMMISSION
A-5-MNB-99-30

EXHIBIT # 6
PAGE 1 OF 2

September 27, 1999

Page 2

Mr. Bobby Ray

Thank you for your consideration of these comments. Please feel free to contact Jenan Saunders of my staff at (916) 653-9432 with any questions.

Sincerely,



Daniel Abeyta
Acting State Historic Preservation Officer

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 6

PAGE 2 OF 2

ADDENDUM TO APPEAL
 FILED 9/23/99
 RE: DEMOLITION PERMIT
 216 THE STRAND
 MANHATTAN BEACH, CA.

ADDENDUM TO SECTION II OF THE APPEAL -
"DECISION BEING APPEALED - #2. BRIEF
DESCRIPTION OF DEVELOPMENT BEING APPEALED IS:
DEMOLITION PERMIT.

ADDENDUM TO SECTION II. REASONS SUPPORTING
THIS APPEAL -

PER THE ENVIRONMENTAL DETERMINATION
(REPORT), DATED AUG. 11, 1999, PREPARED BY BOBBY
RAY, CITY OF MANHATTAN BEACH, ... "WHERE IT
CAN BE SEEN WITH CERTAINTY THAT THERE IS NO
POSSIBILITY THAT THE ACTIVITY IN QUESTION MAY
HAVE A SIGNIFICANT EFFECT ON THE ENVIRON-
MENT, THE ACTIVITY IS NOT SUBJECT TO CEQA."
STAFF HAS DETERMINED THAT THE PROPOSED
DEMOLITION HAS NO POSSIBILITY FOR SIGNIFICANT
ENVIRONMENTAL EFFECT AND IS THEREFORE NOT
SUBJECT TO ENVIRONMENTAL REVIEW."

THIS PARTICULAR AREA OF THE COASTAL REGION
HAS IN FACT BEEN DEEMED A SENSITIVE
COASTAL ZONE, PER THE FINDINGS OF
THE SOUTH CENTRAL COASTAL INFORMATION
CENTER, INSTITUTE OF ARCHEOLOGY, UCLA
REPOSITORY OF ARCHEOLOGICAL SITE RECORDS

① COASTAL COMMISSION
 A5-MNB-99-369

EXHIBIT # 7

PAGE 1 OF 5

AND REPORTS. PER THIS DETERMINATION, THE POSSIBILITY EXISTS THAT ARCHAEOLOGICAL RESOURCES COULD BE FOUND HERE. PER SECTION 30244 OF THE COASTAL ACT, 79.42, "WHERE DEVELOPMENT WOULD ADVERSELY IMPACT ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES AS IDENTIFIED BY THE STATE HISTORIC PRESERVATION OFFICER, REASONABLE MITIGATION MEASURES SHALL BE REQUIRED. PER JENAN SAUNDERS, STATE HISTORIC PRESERVATION OFFICER, THIS DETERMINATION IS IN FACT PERFORMED BY THE UCLA INSTITUTE OF ARCHAEOLOGY.

PER SECTION 30212, 79.33 OF THE CALIF. COASTAL ACT: 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."

WHILE BOBBY RAY MAINTAINS THE PERMIT APPLICATION IS IN CONFORMITY WITH PUBLIC ACCESS & RECREATION

(2)

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 7

PAGE 2 OF 5

POLICIES OF CH. 3 OF THE COASTAL ACT, IT IS IN FACT IN VIOLATION OF PUBLIC ACCESS, SECTION 30212, ITEM (a)(1) AS QUOTED ABOVE

IN ADDITION, PER SECTION 30240 (6.4) - LAND RESOURCES (CALIF COASTAL ACT) - STATES:

- a) ENVIRONMENTALLY SENSITIVE HABITAT AREAS SHALL BE PROTECTED AGAINST ANY SIGNIFICANT DISRUPTION OF HABITAT VALUES, AND ONLY USES DEPENDENT ON THOSE RESOURCES SHALL BE ALLOWED WITHIN THOSE AREAS.
- b) DEVELOPMENT IN AREAS ADJACENT TO ENVIRONMENTALLY SENSITIVE HABITAT AREAS & PARKS AND RECREATION AREAS SHALL BE SITED & DESIGNED TO PREVENT IMPACTS WHICH WOULD SIGNIFICANTLY DEGRADE THOSE AREAS, AND SHALL BE COMPATIBLE WITH THE CONTINUANCE OF THOSE HABITAT AND RECREATION AREAS.

NEW DEVELOPMENT AT THIS SITE - NOT YET PROPOSED BUT INTENDED BY THE APPLICANT - MUST BE CONSIDERED WHEN GRANTING PERMIT TO DEMOLISH (SEE ATTACHED CEQA CASE LAW.)

(3)

COASTAL COMMISSION
A-5-MNB-99-369

EXHIBIT # 7
PAGE 3 OF 5

IN ESSENCE, THE TWO SHOULD NOT BE CONSIDERED
AS SEPARATE PROJECTS, BUT AS A PART OF
A WHOLE PROCESS, PER CEQA
DETERMINATION OF STANDARDS.

FURTHER MORE, PER SECTION 30250, PG
43, CALIF. COASTAL ACT - DEVELOPMENT -
STATES: NEW RESIDENTIAL DEVELOPMENTS,
EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION,
SHALL BE LOCATED WITHIN SUCH
AREAS WHERE IT WILL NOT HAVE SIGNIFICANT
ADVERSE EFFECTS, EITHER INDIVIDUALLY OR
CUMULATIVELY, ON COASTAL RESOURCES.

PER SECTION 30251, :

THE SCENIC AND VISUAL QUALITIES OF COASTAL
AREAS SHALL BE CONSIDERED AND PROTECTED
AS A RESOURCE OF PUBLIC IMPORTANCE -
PERMITTED DEVELOPMENT SHALL BE SITED &
DESIGNED TO PROTECT VIEWS TO, AND ALONG
THE OCEAN AND SCENIC COASTAL AREAS, TO
MINIMIZE THE ALTERATION OF NATURAL LAND
FORMS, (AND) TO BE VISUALLY COMPATIBLE WITH
THE CHARACTER OF SURROUNDING AREAS.”

(4)

COASTAL COMMISSION

A-5-MNB-99-369

EXHIBIT # 7

PAGE 4 OF 5

FUTURE DEVELOPMENT BY PERMIT
 APPLICANT MAY IN FACT IMPEDE THE
 VISUAL INTEGRITY OF THE CHARACTER
 OF THE SETTING IN WHICH IT IS BUILT.
 IN LIGHT OF THE NECESSITY TO MAINTAIN
 THIS VISUAL INTEGRITY, SUCH FUTURE
 DEVELOPMENT, AS WELL AS
 DEMOLITION OF EXISTING RESOURCES
 SHOULD BE SCRUTINIZED VERY
 CAREFULLY BEFORE THE GRANTING
 OF ANY PERMITS.

Robert Olney
 9/30/99

5