

**CALIFORNIA COASTAL COMMISSION**

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 Commission Action:



**Item M7a**

**RECORD PACKET COPY**

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE HEARING**

**LOCAL GOVERNMENT:** City of Long Beach

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A-5-LOB-01-249

**APPLICANT:** Sentinel Development Company, Bob Kaplan

**AGENT:** Michael Luna, Architect

**APPELLANTS:** Margo Bergman & Rosemary Chávez

**PROJECT LOCATION:** 23 4th Place, City of Long Beach, Los Angeles County.

**PROJECT DESCRIPTION:** Appeal of City of Long Beach local coastal development permit for demolition of a single family residence and a three-unit apartment building on two lots, merging of the two lots, and construction of a four-story, ten-unit condominium with a 5.5-foot side yard (interior) setback at grade (instead of 20 feet).

Lot Area	11,000 square feet (2 lots)
Building Coverage	7,200 square feet (approx.)
Pavement Coverage	2,380 square feet (approx.)
Landscape Coverage	1,420 square feet (approx.)
Parking Spaces	23 (2.3 spaces per unit)
Zoning	PD-5 (Subarea 1)
Plan Designation	High Density Residential
Ht above street grade	45 feet

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeals have been filed. The motion to carry out the staff recommendation is on **top of Page Seven**.

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Long Beach Certified Local Coastal Program, 7/22/80.
2. City of Long Beach Planned Development Ordinance PD-5.
3. City of Long Beach Local Coastal Development Permit No. 0012-17 (Exhibit #6).
4. City of Long Beach Tentative Tract Map No. 53485
5. City of Long Beach Certified Mitigated Negative Declaration No. ND 11-01.

**I. APPELLANTS' CONTENTIONS**

The City's approval of Local Coastal Development Permit No. 0012-17 has been appealed to the Coastal Commission by two aggrieved persons: Rosemary Chávez and Margot Bergman (Exhibits #7&8). Local Coastal Development Permit No. 0012-17, approved by the City of Long Beach Planning Commission on May 3, 2001, and upheld on appeal by the City Council on June 12, 2001, would permit the applicant to demolish the existing development (one single family residence and a three-unit apartment building) on two abutting lots, and construct a new four-story, ten-unit condominium building with a 23-space parking garage (Exhibit #6).

Appellant Rosemary Chávez contends (Exhibit #7):

- Notice was inadequate. The City Planning Department has not demonstrated compliance with the LCP noticing rules applicable to local coastal development permits, which are more rigorous than the requirements for other hearings (Long Beach Municipal Code 21.21.302).
- The Standards Variance was improperly granted. The City approved a variance to substitute a 5'6" interior lot line (side yard) side setback in lieu of 10% of the lot width, which in this case would be 20 feet. The City did not make the required finding that a hardship exists in granting the variance to the building setback requirement.
- The local coastal development permit did not include a finding of compliance with the affordable housing provisions of the certified LCP. The LCP specifically requires that any new development that requires the demolition of existing very low, low and moderate income housing provide for the replacement of that housing as provided in the Long Beach Municipal Code Sections 21.61.010 et. seq.
- There has been inadequate study regarding the impact that this project will have on the beach where significant construction will occur and the impact on the flow of traffic on Ocean Boulevard which will impair public access to the local beaches.
- There been no review by the Planning Commission of the effect that the increased residential density will have on the local beach.

Appellant Margot Bergman contends (Exhibit #8):

- The City-approved project is inconsistent with the certified LCP standards for the project site, specifically the requirement for a 20-foot side yard (interior) setback on the west side of the project. The variance granted by the City to allow 5.5-foot building setback (at grade) will deprive the adjacent residences of sunlight, and will create a wind tunnel affecting pedestrians and vehicle traffic on Ocean Boulevard.

## II. LOCAL GOVERNMENT ACTION

On May 3, 2001, the City of Long Beach Planning Commission held a public hearing for the proposed project. After listening to several persons speak in opposition of the project and the requested side yard variance, the Planning Commission approved with conditions the following:

1. City of Long Beach Local Coastal Development Permit No. 0012-17 (Exhibit #6).
2. City of Long Beach Tentative Tract Map No. 53485
3. Standards Variance (5.5-foot interior side yard setback instead of 20 feet)
4. Site Plan Review
5. Certified Mitigated Negative Declaration No. ND 11-01.

The 11,000 square foot project site is comprised of two lots, both of which front the 4<sup>th</sup> Place street end (Exhibit #2). The southern lot (most seaward) includes the bluff face and top of bluff (Exhibit #3). The action of the Planning Commission authorized the demolition of the existing development (one single family residence and a three-unit apartment building) on the project site, and construction of a four-story, ten-unit condominium building with a 23-space parking garage (Exhibit #4). The existing buildings were constructed in the early 20<sup>th</sup> century.

The Planning Commission approved one code exception (Standards Variance) for a 5.5-foot interior<sup>1</sup> side yard setback along the west property line (at grade) instead of a 20-foot setback (10% of the lot's 200' width). The building standards for the project site, which are contained in Planned Development Ordinance PD-5 (part of the certified LCP), require that the setbacks on the north and west sides (interior lot lines) of the property be ten percent of the lot width. The project site measures 55' x 200' (Exhibit #3). The actual width of the lot (55 or 200 feet width) depends on which side of the lot is determined to be the front side of the lot. In this case, the south side of the lot fronts onto the public beach, and the east side of the lot fronts 4<sup>th</sup> Place, a public street. The City's zoning ordinance states that the front of the lot is the side facing the public street, which results in the lot width being 200 feet. Therefore, the code required interior side yard setback is ten percent of 200 feet: 20 feet.

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<sup>1</sup> Interior lot lines (or interior side yards) are the parts of the site that abut other private lots, in this case the west and north sides of the site.

The Planning Commission, however, found that the site is unique because it fronts both the beach and a public street, and the width of the lot could be considered to be the length of the lot that faces the beach rather than the length that faces 4<sup>th</sup> Place (Exhibit #3). It also found that it would cause the applicant a hardship if 20 feet of the 55-foot width of the lot was used for the side yard on the west side of the property, while the applicant also is required to provide an 8-foot setback on the east side of the site (See Case No. 0012-17). The applicant's hardship would be the resulting 27-foot wide building envelope on a 200'x 55' lot (55' lot width minus 20' and 8' side setbacks = 27' wide building area).

Therefore, the Planning Commission determined that the appropriate side yard setback requirement for this particular site would be ten percent of the 55-foot lot width, which is 5.5 feet. A 5.5-foot building setback (at grade) is consistent with the existing development on the site (the site currently has a zero-foot setback on part of west side where a second story deck is built to the property line) and the pattern of development in the project area (many buildings are separated by only ten feet). The majority of the proposed structure is setback further than the required 5.5 feet from the west property line through the use of stepped-back levels and terraces. Therefore, the Planning Commission found that the code exception would not cause substantial adverse effects on the community and it is not a grant of special privilege.

Margot Bergman and Rosemary Chávez appealed the Planning Commission's action to the City Council. On June 12, 2001, the Long Beach City Council held a public hearing which included testimony from several persons objecting to the proposed project and the requested side yard variance. The City Council denied the appeal and upheld the Planning Commission's approval of the local coastal development permit, site plan review, Tentative Tract Map No. 53485 and standards variance and to construct a four-story, ten-unit condominium at 23 4<sup>th</sup> place with side yard interior setback of 5.5 feet instead of 20 feet.

The City findings state that the proposed project complies with the requirements of the certified LCP by conforming with the height, density and parking requirements contained in Planned Development Ordinance PD-5 (part of the certified LCP), and by terracing the building along the Pacific Ocean (south) elevation to reflect the slope of the bluff (Exhibit #4). The City also adopted findings stating that the approved development is in conformity with the public access and recreation policies of the Coastal Act.

The conditions of the tentative tract map require the applicant to make street and street end improvements on 4<sup>th</sup> Place, including installation of street trees, re-grading of and landscaping of the bluff, and contribution of half of one percent of the value of the development for off-site improvements to beach access (Exhibit #6, p.8: Condition Nos. 27-30). In conjunction with the street-end beautification improvements, the project developer is required to improve the bluff slope at 4<sup>th</sup> Place according to the guidelines of the "Plan for Development –Bluff Erosion and Enhancement Project" of November 2000, to the satisfaction of the Director of Parks, Recreation and Marine. Under such guidelines, the developer shall re-grade the 4<sup>th</sup> Place right-of-way bluff to create a slope not to exceed 1.5 to 1, shall install an irrigation system with an automatic shut-off provision in the case of a break or leak, and shall re-landscape the bluff. The re-grading shall meet the grade of the property at the property line on the east side of 4<sup>th</sup> Place. No cross lot drainage shall be allowed from the project to the 4<sup>th</sup> Place bluff right-of-way or from the re-graded right-of-way to the property east of 4<sup>th</sup> Place.

Upon completion of construction, the applicant is required to restore any damage to the beach to the satisfaction of the Director of Public Works. Finally, the applicant/developer shall be required to keep the beach area from the toe of the bluff seaward maintained in a clean condition and open to the public (Exhibit #6, p.3: Condition No. 16). Storage of construction material and equipment on the beach is expressly prohibited.

On June 19, 2001, the City's Notice of Final Local Action for Local Coastal Development Permit No. 0012-17 was received via first class mail in the Commission's South Coast District office in Long Beach. The Commission's ten working-day appeal period was established on June 20, 2001. On June 28, 2001, Commission staff received Margot Bergman's appeal (Exhibit #8). On July 3, 2001, Commission staff received the appeal submitted by Rosemary Chávez (Exhibit #7). The appeal period ended at 5 p.m. on July 3, 2001, with no other appeals being received.

### **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 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. Developments which constitute major public works or major energy facilities may be also appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

The City of Long Beach Local Coastal Program was certified on July 22, 1980. Sections 30603(a)(1) and (a)(2) of the Coastal Act identify the proposed project site as being in an appealable area by virtue of its location within three hundred feet of the beach, within 300 feet of the top of the seaward face of a coastal bluff, and also between the sea and the first public road paralleling the sea (Ocean Boulevard).

Section 30603 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 greater distance.

- (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

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 determine 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 the appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the Commission will be deemed to have determined that the appeal raises a substantial issue, 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 a permit to be issued for a project located between the first public road and the sea or other water body in the coastal zone, a specific finding must be made that any approved project is consistent with the public access and public recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal 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.

**See top of Page Seven** for the motion and resolution to carry out the staff recommendation.

#### 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 certified Long Beach LCP or the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

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

##### MOTION:

*"I move that the Commission determine that Appeal No. A-5-LOB-01-249 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.

##### Resolution to Find No Substantial Issue for Appeal A-5-LOB-01-249

The Commission hereby finds that Appeal No. A-5-LOB-01-249 raises no substantial issue regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

#### V. FINDINGS AND DECLARATIONS ON SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

##### A. Project Description

The applicant proposes to construct a multi-level (five levels above 4<sup>th</sup> Place and eight levels above the beach), ten-unit condominium complex on an 11,000 square foot (200'x 55') beachfront site (Exhibits #3-5). The project site, which includes the coastal bluff and 55 feet of beach frontage, is comprised of two lots on the end of 4<sup>th</sup> Place near downtown Long Beach (Exhibit #2). A single family residence and a three-unit apartment building that currently occupy the site would be demolished. The on-site parking supply for the proposed project (23 spaces) will be provided in a two-level parking garage accessed off of 4<sup>th</sup> Place, the only fronting street (Exhibit #3).

The project site is within Subarea 1 of the City of Long Beach Ocean Boulevard Planned Development District (PD-5). The Planned Development District (PD-5) is part of the implementing ordinances portion of the City of Long Beach certified LCP. The land use designation for the project site allows high-density residential developments of up to 54 residential units per acre. The proposed ten-unit project on the 11,000 square foot (0.25 acre) site has a density rate of 40 residential units per acre, which is consistent with the density limit contained in the certified LCP. The proposed project also conforms to the LCP height limit of

four stories and 45 feet above Ocean Boulevard elevation. The 23 proposed on-site parking spaces meet the parking requirements of the certified LCP.

The project site, situated between the public beach and Ocean Boulevard, is in the heart of the densely developed residential neighborhood that exists east of downtown along the Ocean Boulevard scenic corridor (Exhibit #2). The proposed project is located one lot seaward of Ocean Boulevard and is accessible only from 4<sup>th</sup> Place, a public street-end with curbside parking (Exhibit #2). The existing on-street parking supply will not be reduced by the proposed project.

The Ocean Boulevard-fronting lot on the north side of the project site is occupied by an old two-story single family residence (Exhibit #2). The 400-foot wide public beach abuts the south side of the project site (Exhibit #3). A four-story, high-density apartment building (129 units) occupies the property on the east across 4<sup>th</sup> Place. The proposed condominium structure is set back 5.5 feet from the west property line that is shared with the appellant's (Ms. Bergman) residence, a 25-foot high two-story house.

At the beach level, consistent with the certified LCP and the existing pattern of bluff face development, the proposed structure will not extend beyond the current toe of the bluff (Exhibit #3). The structure will extend to the toe of the bluff, requiring excavation of the bluff face in order to accommodate one residential unit at beach level (Exhibit #4). The building will rise vertically from the beach level for four levels, then the upper four levels would each be set back from the beach. The City found that these upper level setbacks were consistent with the LCP requirement that "any portion of any building south of the shoulder of the bluff shall be terraced to reflect the sloping nature of the bluff."

The applicant proposes to install a twelve-inch high retaining wall at the lot's southern property line, which is at the inland edge of the public beach and about twenty feet seaward of the former toe of bluff (Exhibit #3). The proposed retaining wall would replace an existing chain link fence on the property line. The applicant proposes to construct a stairway from the proposed building down to the beach to accommodate residents.

The nearest public access stairways down the bluff face are located one block west at the 3<sup>rd</sup> Place street-end, and one block east at the 5<sup>th</sup> Place street-end (Exhibit #2). The City has not proposed to construct a public access stairway at the 4<sup>th</sup> Place street-end, a City right-of-way. However, as a condition of approval the City has required the applicant to regrade and revegetate the bluff face at the 4<sup>th</sup> Place street-end right-of-way consistent with the City's "Plan for Development - Bluff Erosion and Enhancement Project" of November 2000 (Exhibit #6, p.8: Condition No. 28).

The City has also required that the applicant contribute to the Department of Parks, Recreation and Marine one-half of one percent of the value of the development to be used for off-site beach access improvements (Exhibit #6, p.8: Condition No. 29). The applicant is also required to "keep the beach area from the toe of the bluffs seaward maintained in a clean condition and open to the public" (Exhibit #6, p.3: Condition No. 16).



**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 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 appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. 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 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.

The following public access policies of the Coastal Act are relevant to this appeal.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public

safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest 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 need, or the protection of fragile coastal resources, (2) adequate access exists nearby...

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The above-stated public access policies of the Coastal Act protect the public's ability to access the shoreline, beach and coastal recreational facilities. The public access policies of the Coastal Act are relevant to this appeal because one of the appellants (Ms. Chávez) is asserting that:

- There has been inadequate study regarding the impact of this project will have on the beach where significant construction will occur and the impact on the flow of traffic on Ocean Boulevard which will impair public access to the local beaches.
- There been no review by the Planning Commission of the effect that the increased residential density will have on the local beach.

The appeals raise no substantial issues with regards to the project's consistency with the public access policies of the Coastal Act because, in fact, the City approval does adequately address the proposed project's potential impacts on the beach and public access to the coast. The proposed project is consistent with the above-stated public access policies of the Coastal Act because it will not "interfere with the public's right of access to the sea" or beach (Section 30211) because "maximum access" (Section 30210) to the beach and sea is protected by the City's conditions of approval. Furthermore, "adequate access exists nearby" (Section 30212) along the adjacent sandy beach and at the 3<sup>rd</sup> Place and 5<sup>th</sup> Place public access stairways (Exhibit #2). Public access to and along the beach and shoreline, and the existing lower-cost recreational facilities, will not be reduced or otherwise negatively affected by the proposed project.

First, Special Condition Nos. 16 and 17 of the local coastal development permit prohibit the storage of construction materials and equipment on the beach, require the beach to be kept in a clean condition and open to the public, and hold the applicant responsible for any damage to the beach that may occur (Exhibit #6, p.3: Condition Nos. 16-17). The City, in approving the tract map for the proposed condominiums, has also required that the applicant contribute one-half of one percent of the value of development for off-site beach access improvements (Exhibit #6, p.8: Condition No. 29). Therefore, as conditioned, the City-approved project will not block, obstruct or interfere with the public's use of any existing coastal accessways or public beach areas.

Secondly, the approved density (10 units) of the proposed project is substantially lower than the density level that the City and Commission determined to be appropriate for this area of Long Beach when the LCP was certified in 1980. The certified LCP designates the project site and surrounding downtown neighborhood as a high-density residential neighborhood with high-rise buildings permitted to reach up to 170 feet above Ocean Boulevard. The certified LCP calls for residential densities of 54 residential units per acre, and up to 120 units per acre with special development incentives. The proposed ten-unit project on the 11,000 square foot (0.25 acre) site has a density rate of 40 residential units per acre, which is much lower than the density contemplated for the site in the certified LCP. The proposed project also conforms to the LCP height limit and parking requirements (23 on-site parking spaces).

The surrounding area is developed or is being developed with several new high-density residential projects much larger and denser than the currently proposed project. A 129-unit apartment building exists on the property east of the project site (across 4<sup>th</sup> Place). Such dense development is consistent with the certified LCP and the character of the downtown area. The certified LCP designates this area of Long Beach for high-density residential land uses because it is part of the downtown area where the infrastructure (e.g. public streets and transportation) exists to accommodate such intense development. All other parts of the Long Beach coastal zone, which lie further away from the downtown core, have been designated for less intense development. The public beach near the site is over four hundred feet wide, is underutilized much of the year, and can accommodate much more use than it is currently receiving.

Therefore, the density of the proposed project, which would increase the number of residential units on the site from the current four units to the proposed ten units, cannot be expected to have a negative impact on the adjacent beach. The proposed increase in density is relatively minor (net increase of six units) and the proposed density is substantially lower than the density limit contained in the certified LCP. The adjacent beach is underutilized and can accommodate a substantial increase in use without causing any negative effects to public access or recreation.

Finally, the proposed density will not have a negative effect on public parking or the flow traffic in the coastal zone. Although on-street parking in the project area is in high demand, the proposed project is required to provide adequate on-site parking (23 parking spaces for ten units) so as not to increase the demand for public parking in the area. None of the public-on-street parking spaces that exist at the 4<sup>th</sup> Place street-end will be displaced or eliminated by the proposed project. The City traffic Engineer has reviewed the proposed project and does

not foresee any traffic congestion problems created by the proposal. Therefore, the Commission finds that no substantial issue exists with the City's approval of the proposed project in regards to residential density, public parking, traffic congestion, or public access to the beach.

In analyzing an appeal of a permit granted under a certified LCP, the Commission must find that a substantial issue exists if a project raises a significant question regarding conformity with either the public access policies of Coastal Act or with the public access policies of a certified LCP. The Long Beach certified LCP includes specific public access requirements for PD-5, the Ocean Boulevard Corridor. The following LCP access requirement is relevant to this appeal:

(b) **ACCESS.**

*2. Pedestrian. Pedestrian access from Ocean Boulevard to the beach shall be provided along the "Places." Each new development shall provide for improving such access at one place through the provision for such features as new stairways, lighting, landscaping and street improvements, according to an improvement plan consistent with LCP access land map to be developed by the Tideland Agency and Bureau of Parks, and approved by the Planning Commission. Such plan shall be developed and approved before the grant of any development approval. Development responsibility for such provisions shall be at least one-half of one percent of the value of the development.*

As noted above, the applicant will not extend his development onto the beach and is required to repair and landscape to the 4<sup>th</sup> Place right-of-way bluff face adjacent to the project. In order to comply with the above-stated LCP requirement, the City has also required that the applicant contribute one half of one percent of the value of development for off-site beach access improvements (Exhibit #6, p.8: Condition No. 29). The nearest public access stairways down the bluff face are located one block west at the 3<sup>rd</sup> Place street-end and one block east at the 5<sup>th</sup> Place street-end (Exhibit #2). The City has not proposed to construct a public stairway at the 4<sup>th</sup> Place street-end, as the certified *LCP access land map* designates only the 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> Place street-ends for public stairways down the bluff face. As proposed, and as conditioned by the City, the proposed project will not interfere with public access to the beach and is consistent with the polices of the certified LCP with respect to public access.

Both appellants have asserted that the City-approved project is inconsistent with the certified LCP because the City approval includes a standards variance that allows a 5.5-foot interior side yard setback instead of the required 20-foot setback (at grade). The PD-5 building standards, which are part of the certified LCP, state:

(c) **Building Design Standards.**

*1. Design character. All buildings shall be designed as to provide an interesting façade to all sides and to provide an open and inviting*

*orientation to Ocean Boulevard. The following additional features shall also be provided:*

- A. *The exterior of building design, style and façade shall be appropriate for the area and harmonious with surrounding buildings.*
- B. *Any portion of any building south of the shoulder of the bluff shall be terraced to reflect the sloping nature of the bluff.*

## **2. Yard Areas.**

### **A. Setbacks.**

- (1) *Ocean Boulevard frontage –twenty feet from property line.*
- (2) *Side streets – eight feet from side street property line.*
- (3) *Interior property lines – ten percent of the lot width.*
- (4) *Beach property lines – no building shall extend toward the beach further than the toe of the bluff, or where existing development has removed the toe of the bluff, no building shall extend toward the beach further than existing development on the site.*

The appellants have challenged the project's consistency with the setback standard A.(3) above: *Interior property lines –ten percent of the lot width*. Setback standard A.(1) does not apply as the proposed project does not front onto Ocean Boulevard. The proposed project complies with setback standard A.(2) above as the proposed structure is set back eight feet from 4<sup>th</sup> Place (Exhibit #3). The proposed project also complies with setback standard A.(4) as the proposed structure does not extend beyond the toe of the bluff.

Setback standard A.(3) (Interior property lines) would apply only to the proposed project's north and west side yards because only the north and west lot lines are interior lot lines (lot lines that abut other private lots). The south lot line abuts the public beach and the east lot line abuts 4<sup>th</sup> Place street-end (Exhibit #3).

The appellants assert that the lot's width is the length of the lot that fronts on 4<sup>th</sup> Place: 200 feet. Therefore, setback standard A.(3) would require that the interior property line setbacks be 20 feet, which is ten percent of a 200-foot wide lot.

The applicant argues that the width of the lot is really 55 feet, not 200 feet (the lot is 55'x 200'). The applicant's site, if it fronted on Ocean Boulevard, would be measured along its Ocean Boulevard frontage and would be 55 feet wide. However, the project site is separated from Ocean Boulevard by another lot, and does not front onto Ocean Boulevard (Exhibit #2).

The actual width of the lot (55 or 200 feet width) depends on which side of the lot is determined to be the front side of the lot. In this case, the south side of the lot fronts onto the public beach, and the east side of the lot fronts 4<sup>th</sup> Place, a public street. The City's zoning ordinance states that the front of the lot is the side facing the public street, which results in the

lot width being 200 feet. Therefore, the required interior side yard setback would be ten percent of 200 feet: 20 feet.

The City, however, found that the site is unique because it fronts both the beach and a public street, and the width of the lot could be considered to be the length of the lot that faces the beach rather than the length that faces 4<sup>th</sup> Place (Exhibit #2). It also found that it would cause the applicant a hardship if 20 feet of the 55-foot width of the lot was used as a setback area along the west side of the property, while the applicant also is required to provide an 8-foot setback on the east side of the site. The applicant's hardship would be the resulting 27-foot wide building envelope on a 200'x 55' lot (55' lot width minus 20' and 8' side setbacks = 27' wide building area). The City states that a 20-foot interior setback is "excessive and is prohibitive in designing the garage and building layout" in this high-density residential area.

Therefore, the City determined that the appropriate interior yard setback requirement for the "unique physical circumstance with this development" would be ten percent of the 55-foot lot width, which is 5.5 feet. A 5.5-foot building setback (at grade) is consistent with the existing development on the site (the site currently has a zero-foot setback on part of west side where a second story deck is built to the property line) and the pattern of development in the project area (the majority of the lots in the area are 55' wide and many of the existing buildings are separated by 11'). As a mitigating factor, the applicant has set back the majority of the proposed structure further than the required 5.5 feet (at grade) from the west property line through the use of stepped-back levels and terraces. The upper level living areas are terraced and set back from the west property line by ten, thirteen and fifteen feet. The City also found that the code exception would not cause substantial adverse effects on the community and it is not a grant of special privilege.

The Commission, in this case, concurs with the City that the approved 5.5-foot interior yard setback is consistent with the requirements of the certified LCP. The City-approved 5.5-foot setback meets the LCP requirement for ten percent of the lot width. One could reasonably argue about whether the width of the lot is 55 or 200 feet. However, the City-approved 5.5-foot setback along the west property line is: a) greater than the current setback which is zero, b) consistent with the current setbacks that exist between many of the existing developments in the neighborhood, and c) not a grant of special privilege or a bad precedent. Also, the City-approved 5.5-foot setback along the west property line would not result in any negative impacts to coastal resources or public access as it relates only to the separation of two private structures. None of this matters, however, because the City granted the project a standards variance and made the necessary findings as allowed by the certified LCP.

Therefore, the Commission finds that the proposed project is consistent with the requirements of the certified LCP, and the appeals raise no substantial issue with regards to consistency with certified LCP and the public access policies of the Coastal Act.

The appellant (Ms. Chávez) also asserts that the City's public notice for the local coastal development permit was inadequate. She claims that the City Planning Department has not demonstrated compliance with the LCP noticing rules applicable to local coastal development permits, which are more rigorous than the requirements for other hearings. The certified LCP (Long Beach Municipal Code 21.21.302) requires that a notice of hearing for a local coastal

development permit shall be posted at the site (at least 14 days prior to hearing) and mailed or delivered (at least 14 days prior to hearing) to the following persons:

1. Owner of the property subject to the hearing
2. Applicant
3. Local Agencies
4. Owners of properties within 300 feet of the property subject to the hearing
5. All residents within 100 feet of the property subject to the hearing
6. Coastal Commission

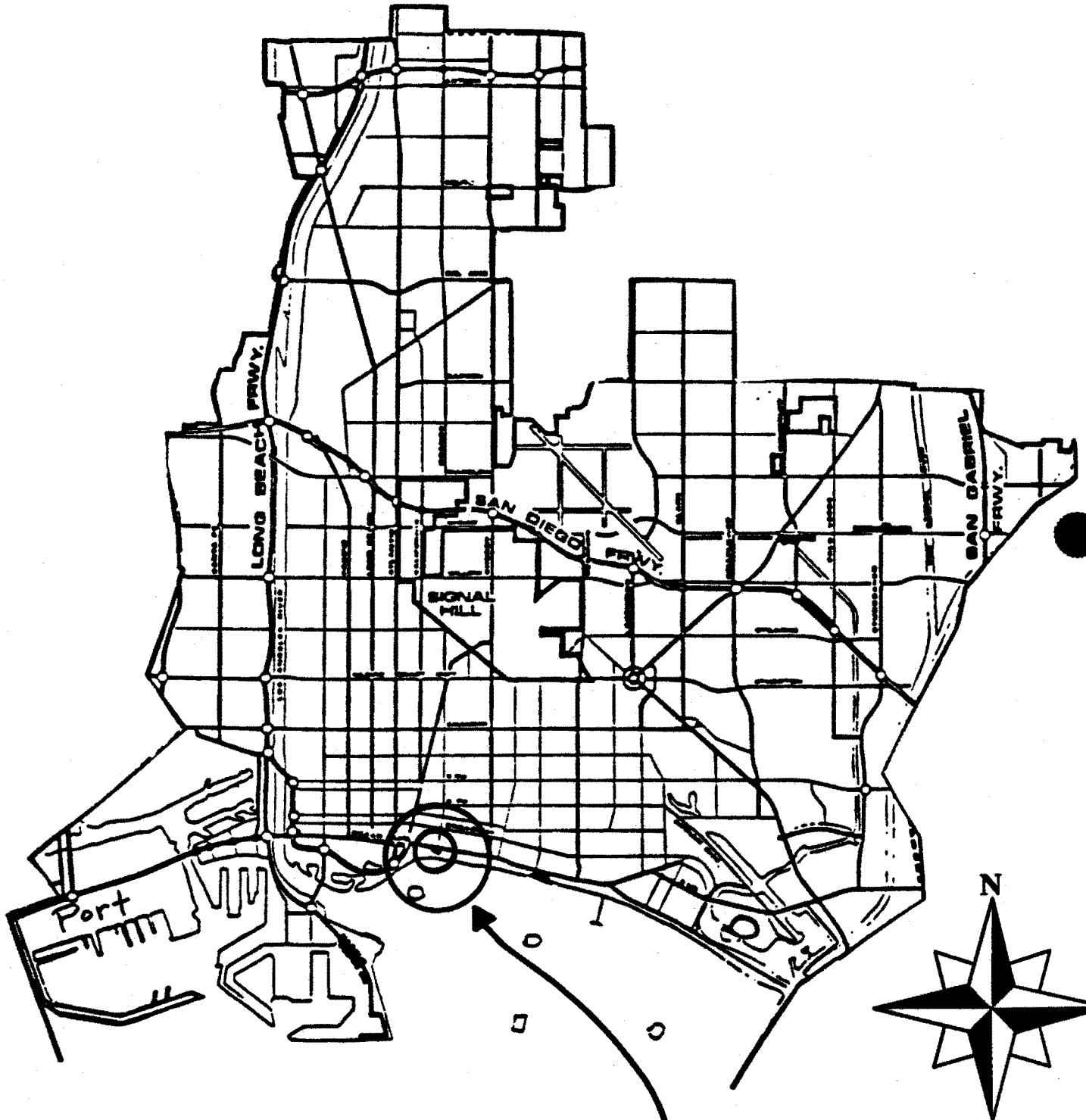
No one, including the appellant, has submitted any evidence or specific description of lack of compliance to support her assertion that the public notice was inadequate. Numerous persons, including both appellants, participated in the local hearings without complaints about improper notice. The City record indicates complete compliance with the noticing requirements of the LCP. In addition to notifying the owner of the property, the applicant, local agencies, and the Commission, the applicant prepared a 300-foot radius map (Exhibit #2) along with a mailing list containing the names and addresses of each owner and resident of each property situated within the 300-foot radius. The radius map, address list, and copies of the public hearing notices are all included in the City's record of the local coastal development permit action. The City attests to mailing the public hearing notices as required. Therefore, the Commission finds that the appeals raise no substantial issue with regards to the City's compliance with the certified LCP public notice requirements.

The appellant (Ms. Chávez) also asserts that the local coastal development permit did not include a finding of compliance with the affordable housing provisions of the certified LCP. While it is true that the local coastal development permit does not state whether or not the applicant has complied with the affordable housing provisions contained in the certified LCP, the Coastal Act gives neither the City nor the Commission the ability to enforce an LCP requirement that relates to replacement of affordable housing units. The City may enforce the LCP requirement that relates to replacement of affordable housing units under some other statutory grant of authority other than the Coastal Act. The Coastal Act does not allow the Commission to require the applicant to replace any affordable housing units that the City permits to be demolished. Therefore, even though the appellant correctly asserts that the local approval does not state whether or not the applicant has complied with the affordable housing provisions contained in the certified LCP, there is no substantial Coastal Act issue.

In conclusion, the proposed development and the local coastal development permit for the proposed development are in compliance with all sections of the City of Long Beach certified LCP that were raised on appeal and area within the Commission's review jurisdiction, as well as with the public access policies of the Coastal Act. The proposed project, as approved and conditioned by City of Long Beach Local Coastal Development Permit No. 0012-17, will not have a significant adverse effect on coastal access or coastal resources. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the development may have on the environment. Therefore, the Commission finds that the appeal raises **no substantial issue.**

End/cp

# City of Long Beach



Site:  
23 4th Place

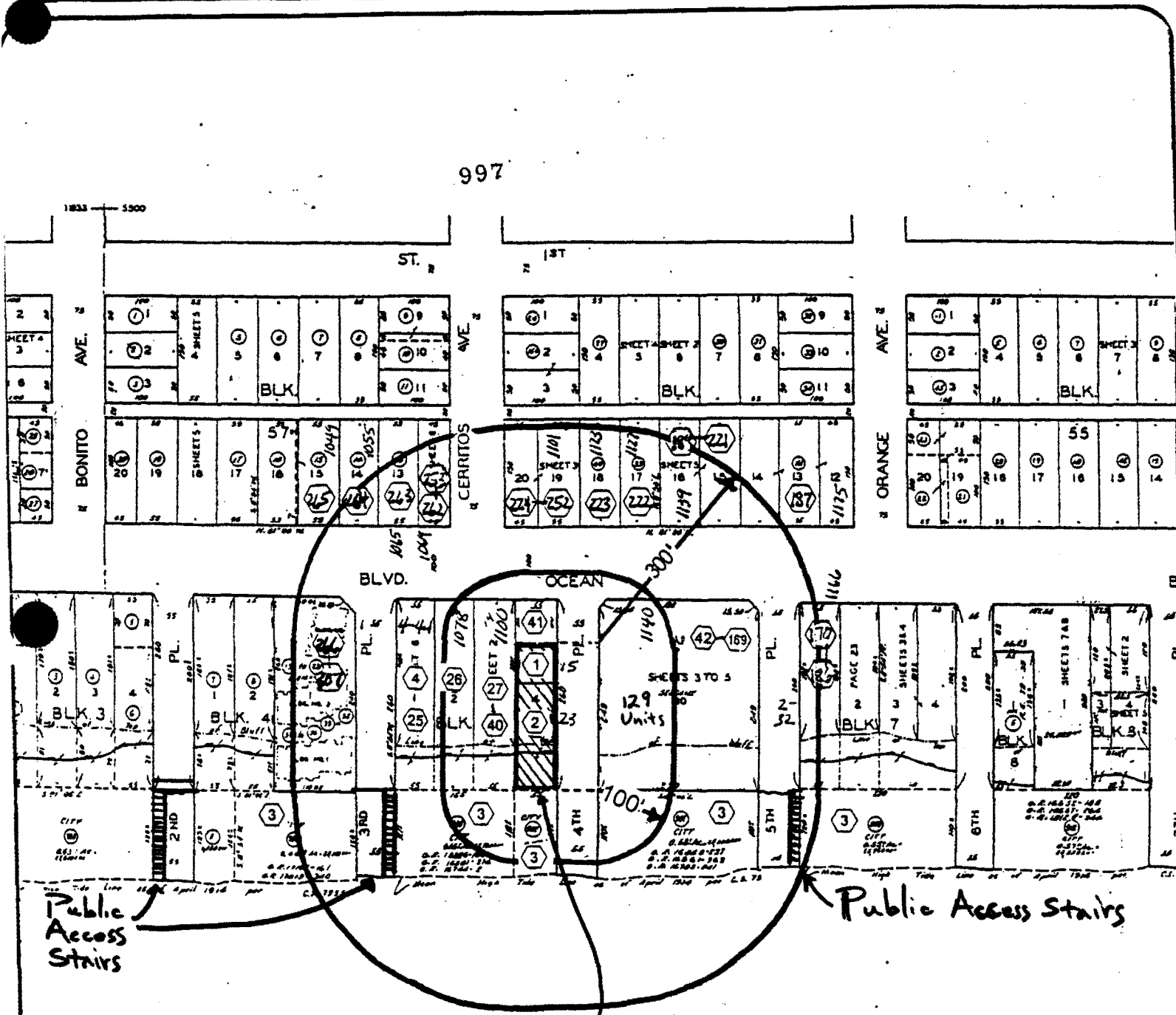
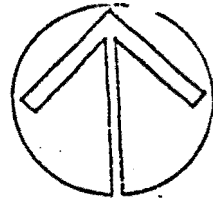
COASTAL COMMISSION  
A5-LOB-01-249

EXHIBIT # 1

PAGE 1 OF 1



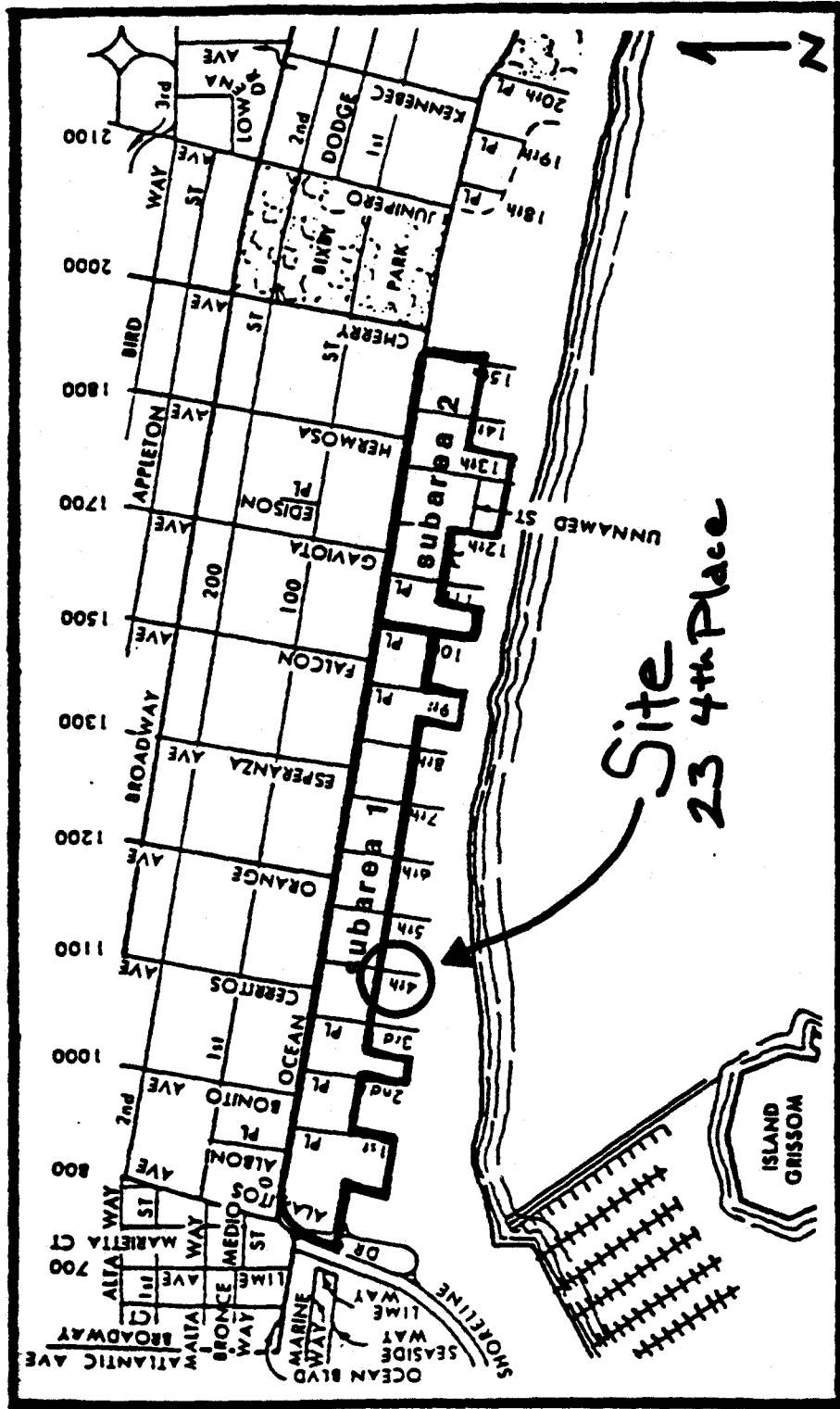
**PROJECT INFORMATION**  
 15-23 4<sup>TH</sup> PLACE  
 LONG BEACH, CA  
 SCALE 1" = 200'



Site ①+②  
 23 4th Place  
 Long Beach

**COASTAL COMMISSION**  
 A5-LOB-01-249

EXHIBIT # 2  
 PAGE 1 OF 2

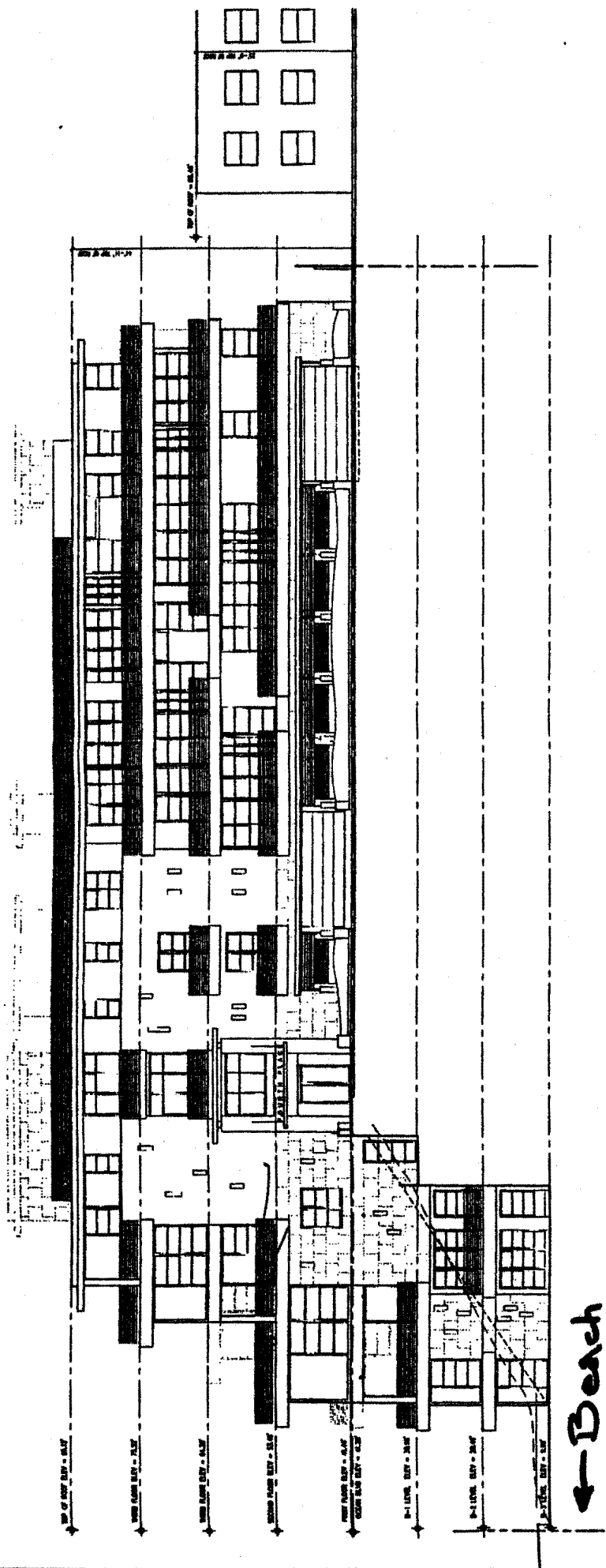


Ocean Boulevard  
Planned Development

COASTAL COMMISSION  
A5-LOB-01-29

EXHIBIT # 2  
PAGE 2 OF 2





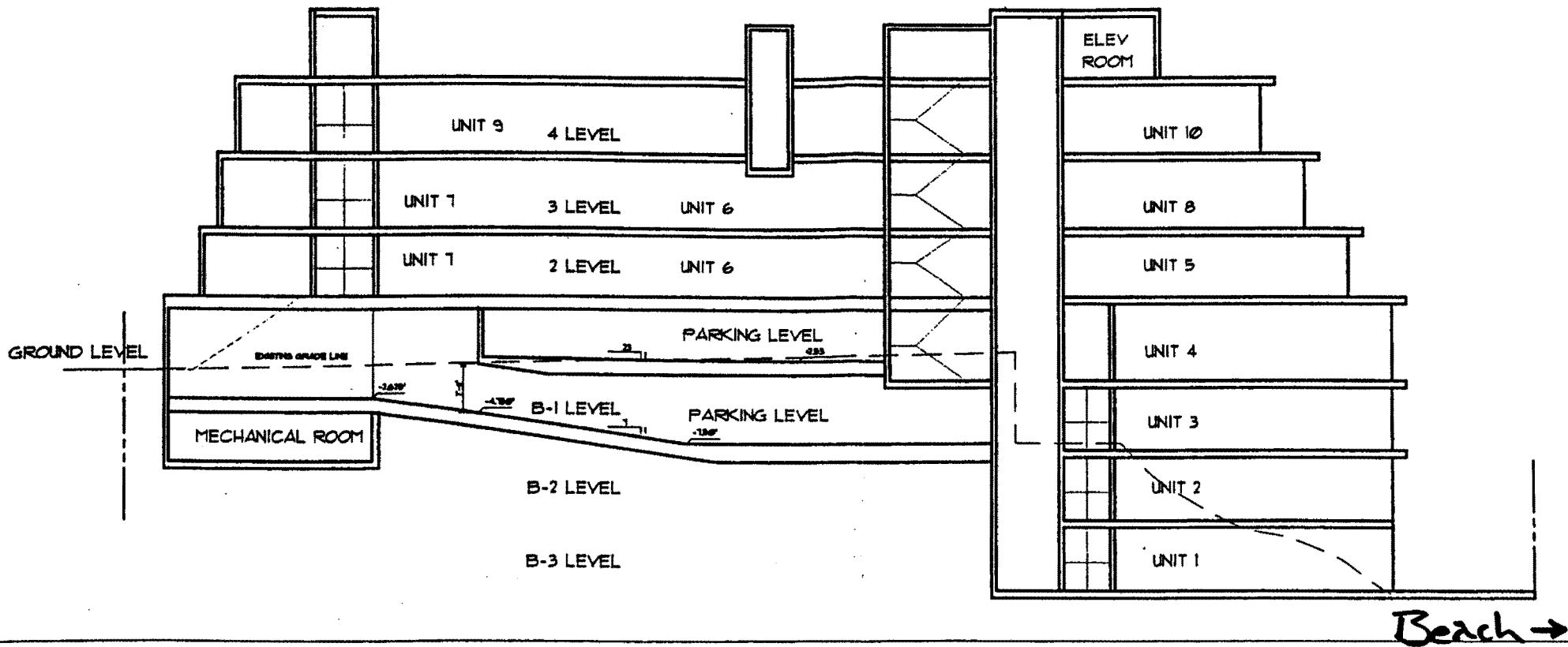
EAST (FRONT) ELEVATION

*4th Place Elevation  
Proposed*

COASTAL COMMISSION

EXHIBIT # 4

PAGE 1 OF 1



BUILDING SECTION

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

COASTAL COMMISSION

EXHIBIT # 5  
 PAGE 1 OF 1



# CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 W. OCEAN BLVD. • LONG BEACH, CA 90802 • (562) 570-6194 FAX (562) 570-6068

ZONING DIVISION

*OK to setup appeal period.*

## NOTICE OF FINAL ACTION

RECEIVED  
JUN 19 2001

CALIFORNIA  
COASTAL COMMISSION

**Case No.:** 0012-17

**Project Location:** 23 4<sup>th</sup> Place

**Applicant:** Michael Luna, Architect

**Applicant Address:** 31681 Camino Capistrano, Suite 105  
San Juan Capistrano, CA 92675

**Permit(s) Requested:** Local Coastal Development Permit, Site Plan Review, Standards Variance, and Tentative Tract Map No. 53485

**Project Description:** Construct a new 4 story 10 unit condominium with a side yard (interior) setbacks of 5'6" at grade (instead of not less than 20' (District 2)

**Action was taken by :** City Council on: June 12, 2001

**Decision:** Approved, subject to conditions of approval.

**Action is final:** June 12, 2001

This project IS IN the Coastal Zone. *Appealable*

See other side for City of Long Beach and California Coastal Commission appeal procedures and time limits.

*Robert Bernard*  
Robert Bernard  
Zoning Administrator

*Harold Simkins*  
Harold Simkins, Senior Planner  
Project Planner Phone No. 570-6607

Council District: 2

COASTAL COMMISSION  
A5-LOB-01-201

Attachments

This information is available in an alternative format upon request at (562) 570-6405. EXHIBIT # 6

PAGE 1 OF 8

**LOCAL COASTAL DEVELOPMENT PERMIT/SITE PLAN REVIEW  
STANDARDS VARIANCE**

**CONDITIONS OF APPROVAL**

**RECEIVED**  
JUN 19 2001

**Case No. 0012-17  
Date: June 12, 2001**

**CALIFORNIA  
COASTAL COMMISSION**

1. Except as otherwise provided in the conditions of approval, every right or privilege authorized under this title shall terminate one year after the granting of the request if the right or privilege has not been exercised in good faith within that year as provided in Section 21.21.406 of the Long Beach Municipal Code.
2. This approval shall be invalid if the owner(s) and applicant(s) have failed to return the written acknowledgement of their acceptance of the conditions of approval on forms supplied by the Planning Bureau. This includes a revised set of plans reflecting all of the design changes set forth in the conditions of approval within 90 days from the date of approval or the Site Plan Review.
3. Violation of any of the conditions of this permit shall be cause for the issuance of an infraction, citation, prosecution, and/or revocation and termination of all rights thereunder by the City of Long Beach.
4. All conditions of approval must be printed verbatim on all plans submitted for plan review to the Planning and Building Department. These conditions must be printed on the site plan or a subsequent reference page.
5. The developer must comply with all mitigation measures of the applicable Environmental Review (ND-57-88) prior to the issuance of a Certificate of Occupancy. These mitigation measures (if applicable) must be printed on all plans submitted for plan review.
6. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
7. The Director of Planning and Building is authorized to make minor modifications to the approved concept design plans or any of the conditions

**COASTAL COMMISSION**

EXHIBIT # 6  
PAGE 2 OF 8

if such modifications shall achieve substantially the same results as would strict compliance with said plans and conditions.

8. Site development, including landscaping, shall conform to plans approved on file in the Department of Planning and Building.
9. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of the exterior facades of the buildings and all landscaping surrounding the building including all public parkways.
10. All structures shall conform to Building Code requirements. Notwithstanding this review, all required permits from the Building and Safety Bureau must be secured.
11. Any graffiti found on site must be removed within 24 hours of its appearance.
12. Site preparation and construction activities shall be conducted in a manner which minimizes dust.
13. Demolition, site preparation, and construction activities are limited to the hours between 7:30 a.m. and 6:00 p.m., except for the pouring of concrete, which may occur as needed.
14. The applicant/developer shall provide design, materials, and color details on for the garage screening material to the satisfaction of the Director of Planning and Building.
15. Prior to the release of the foundation permit, the applicant shall submit a soils analysis and shoring plan for the discretionary approval of the Superintendent of Building and Safety.
16. The applicant/developer shall be required to keep the beach area from the toe of the bluffs seaward maintained in a clean condition and open to the public. Storage of construction materials and equipment on the beach is expressly prohibited.
17. Upon completion of construction, applicant shall restore any damage to the beach to the satisfaction of the Director of Public Works.
18. The applicant shall fully screen any any utility meters or equipment between the building and 4<sup>th</sup> Place to the satisfaction of the Director of Planning and Building.

**COASTAL COMMISSION**



19. Prior to the issuance of a building permit, the applicant shall formulate, in consultation with neighbors, a plan to reduce impacts regarding construction hours, construction personnel parking, and the staging of construction materials along 4<sup>th</sup> Place to the satisfaction of the Director of Planning and Building.

NOTE: Unless this project obtained vested rights, it is subject to changes relative to Zoning or General Plan amendments that occur after the attainment of Site Plan Review approval. Thus, it is strongly recommended that the project manager closely monitor the activities of the Planning Commission and City Council. It is not the responsibility of the Department of Planning and Building to provide constant updates on possible changes.

**COASTAL COMMISSION**

EXHIBIT # 6  
PAGE 4 OF 8

**REQUIREMENTS AND EXCEPTIONS FOR NEW CONDOMINIUM  
TENTATIVE TRACT MAP NO. 53485**

**Case No. 0012-17  
Date: June 12, 2001**

1. The Final Tract Map must be recorded with the Los Angeles County Recorder within thirty-six (36) months from the date of approval of the Planning Commission of the Tentative Map, unless prior to the expiration of the thirty-six (36) month period, the applicant requests an extension of time in writing and receives approval by the Zoning Administrator.
2. Unless specifically excepted by the Planning Commission, the proposed subdivision shall conform to all conditions and to all other requirements of the Subdivision Ordinance of the City of Long Beach.
3. The final plot plan shall be based upon criteria established by the Director of Public Works. Such plot plan shall be submitted to the satisfaction of the Director of Public Works prior to issuance of Certificate of Compliance.
4. Prior to issuance of the final Tract Map, all requirements as specified shall be complied with in full.
5. Prior to approval of the final tract map by the Director of Public Works, the subdivider shall deposit sufficient funds with the City to cover the cost of processing the map through the Department of Public Works.
6. The subdivider shall be responsible for the maintenance of off-site improvements during construction of the on-site improvements. Any off-site improvements found damaged shall be reconstructed or provided for by the subdivider to the satisfaction of the Director of Public Works.
7. All required utility easements shall be provided for to the satisfaction of the concerned department or agency and shown on the final plot plan.
8. Should any public entity or public utility hold an interest in the subdivision, the subdivider shall obtain utility clearance letters from such agency as required by Section 66436 © (1) of the Subdivision Map Act prior to approval of the final map.
9. All outstanding special assessments shall be paid in full prior to approval of the final plot plan.
10. County property taxes shall be paid prior to approval of the final plot plan.
11. All required off-site and on-site street improvements shall be provided for to the satisfaction of the Director of Public Works prior to approval of the final Tract Map or issuance of a building permit, whichever occurs first.

12. The applicant shall provide underground wiring for utility service to the project from the applicable pole and shall provide a vacant duct to the appropriate feed point for connection to future underground service to the satisfaction of the Director of Planning and Building.
13. The subdivider shall provide areas for trash and recycling pickup with accessibility to the satisfaction of the Director of Public Works or shall provide for private trash pickup.
14. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance, or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of all applicable impact fees, capacity charges, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
15. Should any public entity or public utility hold any interest in the subdivision, the subdivider shall obtain utility clearance letter from such agency as required by Section 66436 (c)(1) of the Subdivision Map Act prior to approval of the final plot plan.
16. The subdivider shall provide fire hydrants and necessary fire protection facilities to the satisfaction of the Fire Chief.
17. All structures shall conform to Building code requirements. Notwithstanding this Tentative Tract Map, all required permits from the building and Safety Bureau must be secured.
18. The site development shall conform to plans approved and on file in the Department of Planning and Building.
19. Prior to the release of any building permit, the applicant shall submit for review and approval of the Director of Planning and Building a landscape and irrigation plan in full compliance with Chapter 21.42 of the Long Beach Zoning Code and any landscape standards outlined in the Ocean Boulevard Planned Development Plan (PD-5).

The plan shall exceed minimum landscaping requirements as follows:

One palm tree not less than fifteen foot high as street tree for each twenty feet of street frontage; one twenty-four inch box and one fifteen gallon tree for each twenty feet of street (4<sup>th</sup> Place) frontage. Five five-gallon shrub per tree. One cluster of three (25 ft. and 30 ft.) tall palm trees for each twenty

feet of beach frontage. Any exposed bluff area shall be landscaped to the satisfaction of the Department of Public Works, including bluff areas on public property and adjacent public street rights-of-way. All street trees shall contain root diverter barriers. Such landscaping shall not block views of the ocean and shall soften the scale of the building to the pedestrian and motorist.

20. All unused driveways shall be removed and replaced with full-height curb to the satisfaction of the Director of Public Works.
21. The size and configuration of any proposed driveway serving the site shall be subject to review and approval of the Director of Public Works.
22. The subdivider shall plant or provide for street trees adjacent to the site, including necessary tree root barriers, to the satisfaction of the Director of Public Works and the Director of Planning and Building. All existing street trees shall be maintained if feasible. All required street trees, and any landscaping and irrigation system required in connection with this project, shall be privately maintained by the developer and/or successors.
23. The subdivider shall submit a grading plan with hydrology and hydraulic calculations showing building elevations and drainage pattern and slopes for review and approval by the Director of Planning and Building and the Director of Public Works prior to approval of the map and/or release of any building permit.
24. The applicant shall provide sewer connection plans and garage drainage plans to the satisfaction of the Director of Public Works and the Superintendent of Building and Safety prior to issuance of a building permit.
25. All required grading shall be provided for prior to approval of the map.
26. The applicant shall execute and record covenants, conditions and restrictions (C. C. & R's) against the title of the parcel which contain the following provisions. Prior to approval of the final map, a copy of the C. C. & R's shall be submitted to the satisfaction of the Director of Planning and Building. These provisions shall also be noted on the final map.
  - a. The subject condominium consists of 10 dwelling units.
  - b. A minimum of twenty three (23) parking spaces shall be permanently maintained as parking facilities. Parking spaces must be used solely for the parking of personal vehicles. Parking spaces may not be leased, subleased, sold or given to others not a resident(s) of the condominium unit within the development.

- c. Two parking space shall be assigned to each of the units. Parking spaces in tandem arrangement shall be assigned to only one unit. All other parking spaces shall be held in common as guest parking.
  - d. Three (3) on-site parking spaces shall be permanently maintained as guest parking facilities. Such parking shall not be converted to resident's parking or other use.
  - e. The common areas and facilities for the condominium shall be clearly described.
  - f. The Homeowner's Association shall be responsible for the operation and maintenance of the private sewer system connected to the public sewer and site drainage system.
  - g. The Homeowners Association shall be responsible for the maintenance of the common areas and facilities and the abutting street trees and parkways.
  - h. Graffiti removal shall be the responsibility of the Homeowners' association and shall be removed within 24 hours.
27. The subdivider will be required to provide for street end beautification improvements along 4<sup>th</sup> Place to the satisfaction of the Director of Public Works, the Director of Planning and Building, and the Director of Parks, Recreation, and Marine.
28. In conjunction with the for street end beautification improvements, the project developer shall improve the bluff slope at 4<sup>th</sup> Place according to the guidelines of the "Plan for Development – Bluff Erosion and Enhancement Project" of November 2000, to the Satisfaction of the the Director of Parks, Recreation, and Marine. Under such guidelines, the developer shall regrade the 4<sup>th</sup> Place right-of-way bluff to create a slope not to exceed 1.5 to 1, shall install an irrigation system or modify the existing irrigation system to contain an automatic shut-off provision in the case of a break or leak, and shall relandscape the bluff. The regrading shall meet the grade of the property at the property line on the east side of 4<sup>th</sup> Place. No cross lot drainage shall be allowed from the project to the 4<sup>th</sup> Place bluff right-of-way, or from the regarded right-of-way to the property east of 4<sup>th</sup> Place.
29. The applicant shall provide for not less than one half of one percent of the value of development for off-site improvements to beach access to the satisfaction of the Director of Planning and Building and the Director of Parks, Recreation, and Marine.
30. The applicant shall provide for reconstruction and stabilization, if necessary, of 4<sup>th</sup> Place to the satisfaction of the Director of Public Works.
31. The applicant shall provide trash storage areas and shall provide for trash pickup to the satisfaction of the Director of Public Works.

Appeal from Coastal Permit Decision of Local Government  
City of Long Beach; Case No: 0012-17 July 2, 2001

AS-LOB-01-249  
Rosemary Chavez

The decision of the City Council to approve this proposed project, No.: 0012-17, does not conform to the standards set forth in the certified local program for the reasons set forth below:

1.) Notice was inadequate; Long Beach Municipal code section 21.21.302 sets out the requirements for notice of action and hearing for projects in the Coastal Zone that require a Local Coastal Development permit, which are more rigorous than the requirements for other hearings. There is no mention in the materials from the city planning department which evidences compliance with the additional posting and notice requirements of this section.

2.) The Long Beach Municipal code section 21.15.2890 defines a "Standards Variance" as follows:

21.15.2890 Standards variance.

"Standards variance' means granting a property owner relief from development standards of the Zoning Regulations when, because of the particular physical or topographical condition of the property, compliance would result in undue hardship on the owner (as distinguished from a mere inconvenience or desire to make more money). Standards variance shall not be used to intensify the use or increase the density on a lot. (Ord. C-6533 § 1 (part), 1988)."

No city body made any finding to document that there was any undue hardship on the owner (as distinguished from a mere inconvenience or desire to make more money) to justify the granting of a Local Coastal Development permit. Therefore any finding that this project will carry out the goals of the Local Coastal Development Plan is predicated on an inadequate initial basis for consideration.

3.) The Local Coastal Development Plan specifically requires that any new development that requires the demolition of existing very low, low and moderate income housing provide for the replacement of that housing as provided in the Long Beach Municipal Code sections 21.61.010, et seq.

21.61.010 Purpose.

"The purpose and intent of this chapter is to maintain the present number of very low, low and moderate income housing units within the coastal zone and to require that any applicant for a coastal development permit, as a condition of permit issuance, be responsible for replacing existing very low, low and moderate income housing on a one-to-one basis. (Ord. C-6533 § 1 (part), 1988)."

None of the plans provided for the study and review of the City Council and the Planning Commission make any provision for compliance with this section.

4.) The appellant(s) additionally feel that there has been inadequate study regarding the impact this project will have on the beach where significant construction will occur and the impact on the flow of traffic on Ocean Boulevard which will impair public access to the local beaches.

5.) Nor has there been any review by the planning commission of the effect that the increased residential density will have on the local beach.

For all the foregoing reasons and any further additional information to be submitted to the Coastal Commission; the Appellant(s) request that this Commission review the decision of the City Council of the City of Long Beach and deny the request for a Local Coastal Development permit.

EXHIBIT # 7

PAGE 1 OF 1

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
(Commission Form D)

Please Review Attached Appeal Information Sheet Prior To Completing
This Form. Palisades Homeowners Association 2 thru 44 Third Place
Long Beach 90802 Margot Bergman-P.O.Box 1952 Long Beach, Ca. 90801
Tel. 562-436-6855

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Margot Bergman
P.O. Box 1952
Long Beach, Ca. 90801 (562) 436-6855
Zip Area Code Phone No.

RECEIVED
South Coast Region

JUN 28 2001

CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

1. Name of local/port
government: Long Beach City Council

2. Brief description of development being
appealed: Four Story-Ten Unit Condominium

3. Development's location (street address, assessor's parcel
no., cross street, etc.): 23-4th Place, Long Beach
-APN 7265-006-005; APN 7265-006-006; Tentative Tract Map No.
53485

4. Description of decision being appealed:

- a. Approval; no special conditions:
(b.) Approval with special conditions: Development -Permit Standard
Variance-Lot set back of 5'6" instead of 20'feet.
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-5-LOB-01-249
DATE FILED: 6.28.01
DISTRICT: South Coast / Long Beach
H5: 4/88

COASTAL COMMISSION

EXHIBIT # 8
PAGE 1 OF 3

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.  Other \_\_\_\_\_

6. Date of local government's decision: June 12, 2001

7. Local government's file number (if any): 0012-17

**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:

Michael Luna-Sentinel Development Corp.  
31681 Camino Capistrano Suite 105  
San Juan Capistrano, Ca. 92675 Tel. 949-493-5200

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) Michael Luna  
31681 Camino Capistrano Suite 105  
San Juan Capistrano, Ca. 92675

(2) Jeanne Woody  
14 Third Place  
Long Beach, Ca. 90802

(3) William Davidson  
31 Colonnade  
Long Beach, Ca. 90803

(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.

**COASTAL COMMISSION**

EXHIBIT # 8

PAGE 2 OF 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.) See attached description of Local Coastal Program. Project is inconsequent with the Local Coastal Program,

Adopted by the City Council on 2-12-1980. Certified by the California Coastal Commission on 7-22, 1980. It Abuts a lower height apartment complex. Building will be deprived of sunlight and suffer increased Ocean flow winds, now protected by the current 20 foot lot set back rule. Narrowing space to 5.6 set back and installation of a cement wall by Developer will create a wind tunnel affecting pedestrians and Ocean Blvd. vehicle traffic.

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/our knowledge.

Margot Bergman  
Signature of Appellant(s) or  
Authorized Agent

Date June 27, 2001

NOTE: If signed by agent, appellant(s) must also sign below.

COASTAL COMMISSION

EXHIBIT # 8  
PAGE 3 OF 3

# SENTINEL DEVELOPMENT

July 24, 2001

Chuck Posner  
Coastal Program Analyst

California Coastal Commission  
P.O. Box 1450  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

RECEIVED  
South Coast Region  
JUL 25 2001  
CALIFORNIA  
COASTAL COMMISSION

RE: Commission Appeal No. A-5-LOB-01-249  
Case No. 0012-17

Chuck Posner,

I would like to present this letter in response to the two (2) appeals regarding the 10 unit condo project located at 23 4<sup>th</sup> Pl., Long Beach, CA 90802. Both of the appeals have several inaccurate and misleading statements and I would like to address these items. I would also like to point out that several of the letters attached to Margot Bergman's appeal contain inaccurate and misleading statements but I will stick to only the issues in the appeal.

I will address the appeal from Rosemary E. Chavez first.

Item #1. Regarding the notice being inadequate:

According to both Harold Simkins, (City of Long Beach, Department of Planning and Building), and the city attorney, all notices were in compliance.

Item #2. Regarding the "Standard Variance":

Due to the narrowness of the lot, the project would not be possible without the variance. It has nothing to do with inconveniences or money. This item was proven at both the appeal before the Planning Commission and the appeal before the City Council. In order to have onsite parking as required by the city, we must be granted this variance.

Item #3. Regarding low income properties.

After speaking to Patrick Ure, (Administrative Analyst for Housing Services Bureau), it appears that there is no housing at this location that would apply. On a second note regarding this item, even if this had been an issue, according to the Tenant Relocation Program LBMC Chapter 21.60, section 21.61.060 E addresses the option of in-lieu fees.

COASTAL COMMISSION  
A5-LOB-01-249

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Items #4 & #5. Regarding local impacts.

According to the City of Long Beach Planning Dept. we are under the allowable density for new residential property in this area.

In reference to the appeal by Margot Bergman:

Margot Bergman states in her appeal that the existing adjacent building to the west is now protected from any ill effects by a current 20 foot setback. Apparently she has never taken the time to walk over to the building and look. According to the survey, nearly half of the existing structure at 23 4<sup>th</sup> pl., is currently located only 4 1/4 feet from the property line while the rest is only 16 1/4 feet from the property line. The existing structure at 21 4<sup>th</sup> pl. currently sits only 8 feet off the property line with a two story deck butting the property line. As for the setback to the north, the existing structure at 21 4<sup>th</sup> Pl., currently sits only 3 3/4 feet from the property line. In addition to this, the proposed building will only maintain these new setbacks at the first floor. The floors above are all stepped back in order to pull the new building away from the property line. In regards to the wind tunnel that is supposedly going to affect pedestrians and traffic on Ocean Blvd, this is utter nonsense. The majority of the development along Ocean Blvd has similar setbacks if not smaller to the setbacks than we are requesting and in the 12 years that I have lived at 23 4<sup>th</sup> Pl., there have been no cars blown over or people sailing away.

Thank you for the opportunity to clarify these items. If there is anything else you need, please don't hesitate to call.

Sincerely,

Bob Kaplan  
Sentinel Development

Bob Kaplan  
562-495-0483

Jay Real  
310-609-2900

**COASTAL COMMISSION**

EXHIBIT # 9  
PAGE 2 OF 2

July 7, 2000

CHUCK POSNER  
CALIFORNIA COASTAL COMMISSION  
SOUTH COAST AREA  
200 OCEANGATE -10<sup>th</sup> FLOOR  
LONG BEACH, CA. 90802-4416

JUL 23 2000  
CALIFORNIA COASTAL COMMISSION

REF: Appeal No. A5 LOB 01-249

Dear Mr. Posner:

We are long time residents and landlords in the area of the proposed ten unit condominium at 23 4<sup>th</sup> Place of East Ocean Blvd. In selection and acquiring property we always felt protected by the Local Coastal Plan. Now this is in doubt in view of the special interest variance granted by our City Fathers regarding increased building height and less then required lot set back to Redondo Beach's Anatasi Development Corp., project now under contraction on E. Ocean Blvd. between First and Second Place.

Now this 4 Place latest project approved by our City; which could be built on property owned and one adjacent lot apparently to be acquired by Sentinel Development Corp by substitution of tandem parking approved in this zone instead of side by side perking spaces at recent hearing and not require variance from 20 foot yards set back Planning Commission Chuck Greenberg stated "developer bought into the problem."

Bill Davidson, past Chairman of the Local Coastal Advisory Committee whom wrote the L.C.Plan adopted by the city and approved by the California Coastal Commission in 1980, whose correspondence too the City Council regarding this latest variance request stated, "That it may well be that circumstances today justify a different vision for areas within the coastal planning area. If such is the case then we should visit the L.C.P. and change it in order that it can continue to serve as a guide in the ordered development of our City. What we should not do is simply ignore the value of planning in our city and approve based on either whom or the individual views of personnel in decision making authority at a particular time to piece meal dismantling of ordered land development.

We hope now this appeal has been filed by two Homeowner Associations, the California Coastal Commission will see justice is done.

  
GERALD BARNARD

  
MARINA BARNARD

100 Atlantic Ave.#1000  
Long Beach, Ca. 90802  
Tel: 562-491-0944

COASTAL COMMISSION

EXHIBIT # 10  
PAGE 1 OF 1

WILLIAM V. DAVIDSON  
COUNSELOR AT LAW  
10630 HUMBOLT STREET  
LOS ALAMITOS, CA 90720

FAX: (562) 431-4290

(562) 430-2749

June 8, 2001

City Council Members  
City of Long Beach  
333 W. Ocean Blvd.  
Long Beach, CA

Re: Appeal of Action of Planning Commission  
Case #0012-17  
Property: 23 4<sup>th</sup> Place


Dear Council Members:

As past chairman of the Long Beach Local Coastal Program Advisory Committee I would like to express my concern about the integrity of planning efforts and adopted plans that is challenged by actions of the Planning Commission exemplified in its approval of a variance in the above case. The LCP Advisory committee, composed of representatives from throughout our City, spent over three years in development of the LCP plan that was adopted by the City, approved by the Coastal Commission, and used as an example for many other California coastal cities. The LCP planning process was a watershed in the history of public planning for the City of Long Beach in that for the first time citizens, of all views, and City planners worked together, not always in initial agreement, to create a vision for the future of our City. The granting of case by case variances, such as the above, destroy not only the integrity of the LCP plan by gradually gnawing away at it; but also, maybe even more importantly, disparage the value of the planning process the LCP represents.

I recognize that it has been a long time since Long Beach adopted the LCP. It may well be that circumstances today justify a different vision for areas within the coastal planning area. If such is the case, then we should revisit the LCP and change it in order that it can continue to serve as a guide in the ordered development of our City. What we should not do is simply ignore the value of planning in our City and approve, based on either whim or the individual views of personnel in decision making authority at a particular time, a piecemeal dismantling of ordered land development.

For the sake of all that has come before, I urge you to address our City's needs today through creative and forward looking planning, and to insist that random project by project special interest variances not be the way in which the development of our coastal zone, or any other part of our city, is determined.

Very truly yours,

  
William V. Davidson

**COASTAL COMMISSION**

EXHIBIT # 11  
PAGE 1 OF 1

May 1, 2001

**RECEIVED**  
South Coast Region

MAY 7 2001

Long Beach City Planning Commission  
333 W. Ocean Blvd. 5<sup>th</sup> Fl.  
Long Beach, CA 90802

CALIFORNIA  
COASTAL COMMISSION

Re: Proposed 10-unit condominium Project: 23 – 4<sup>th</sup> Pl.  
Case #0012-17

To Whom It May Concern:

After recently being notified by the Planning Commission of the proposed project on 4<sup>th</sup> Place and also receiving correspondence from concerned neighbors, I felt it was necessary to voice my opinion and opposition to this project.

I am a senior citizen living in the Queens View Condominiums on Ocean Blvd. & 4<sup>th</sup> Place and have owned and occupied my unit since it was built. I have also been a Long Beach resident since 1950. When I purchased my unit, I took into careful consideration where the unit was located in the building as far as noise factors, accessibility, view and value purposes.

It is apparent that this project will be detrimental to the entire neighborhood in regards to parking, noise, pollution & dust, views, foliage, hillside destruction and blockage of light & sun especially to the neighboring units facing the proposed project. My unit looks directly at the Queen Mary from my patio and of course I am concerned about any blockage of my views and sunlight due to the construction of the proposed building. I am extremely allergic to dust and pollution and have been under a physicians care for my eyes/allergies for over seven years. If necessary I would be willing to provide any documentation from my doctors. The dust from the digging, excavation and construction would not allow me to open my windows or use my patio area.

It is already very difficult to get any kind of parking on the street, as it is extremely limited. I can't even imagine where the equipment and construction site would be located, as any heavy equipment would block the street. Needless to say, it would obviously mean more traffic and congestion, which would make the situation even worse.

I am a semi-retired single senior citizen and my home is my biggest asset I want to protect the integrity and value of my home and continue to enjoy the quiet area I have been accustomed to for all these years. I am asking you to **strongly** consider denying this project for the best of the neighborhood and also for the continued protection of our fragile and diminishing coastline.

**COASTAL COMMISSION**

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I appreciate your consideration for taking the time to review my opinions and concerns. I would like to be notified that my letter was heard by the city planning commission and to please notify me of any and all actions or hearings in regards to this proposed project.

Sincerely,

*Edna W. Lenhart*

Edna W. Lenhart  
1140 E. Ocean Blvd. #133  
Long Beach, CA 90802  
(562) 435-3137

Cc: Coastal Commission  
Rosemary Chavez  
Queens View Board Members

**COASTAL COMMISSION**

EXHIBIT # 12  
PAGE 2 OF 2

**PALISADES APARTMENT ASSOCIATION**

2 – 44 Third Place  
Long Beach, California 90802

April 2, 2001

City of Long Beach  
Planning Commission  
333 West Ocean Blvd.  
Long Beach, CA 90802

Dear Planning Commission:

Re: Proposed Project located at 23 – 4<sup>th</sup> Place

Thank you kindly for this opportunity to provide comment with respect to the above identified project. I am writing on behalf of the Palisades Homeowners Association, which is located at 2-44 3<sup>rd</sup> Place in Long Beach within one block of the proposed project. We are a Homeowners Association composed of 21 individual owners.

We have taken the time to investigate the request by the developer for a variance in setback requirement from the standard 20 feet, as set forth in the LCP, from the property line to 5'6" from the property line. We understand that this setback variance is requested for the north side of the project.

After lengthy discussion, we have concluded that as vitally interested nearby property owners, we have no choice but to oppose this variance request for the following reasons:

1. **The Local Coastal Plan (LCP) should be faithfully adhered to.** When the LCP was put into place, extensive dialogue and property-by-property analysis was undertaken, taking into consideration all possible factors including shadowing, protection of views and public access to coastal views and the general ambience of this very critical portion of Long Beach's stewardship. To allow this variance will negatively impact the sun/shade of the property immediately to the north of the proposed project. This will create a negative ambience factor in our neighborhood.

In addition, the encroachment of the project into the setback area creates a feeling of crowding in our neighborhood. Even with "stepped back" architecture of the northerly design of the project, there is still a building that is too close to its neighbor. This is out of character for our neighborhood.

**COASTAL COMMISSION**

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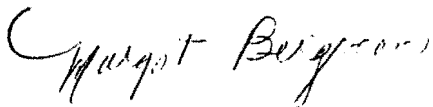


2. Retaining the 20-foot setback standard does not injure the project. We are informed that the developer will still be able to build ten condo units without the variance being granted. We would not object to a variance being granted below grade provided the neighboring property is not injured and the bluff and toe of the bluff are adequately protected.
3. Allowing this request to go forward, which we believe will significantly harm our neighborhood, will erode the LCP and lead to even more future LCP variance eroding requests and possible approvals, to the detriment of our neighborhood. These standards were designed to protect our neighborhood and must be adhered to.
4. As a very nearby neighbor of this proposed project, we believe our opposition must be taken very seriously. While we welcome well-designed projects which enhance our neighborhood, we believe we are forced to *oppose* this variance request and all development which reduces the quality of the neighborhood.

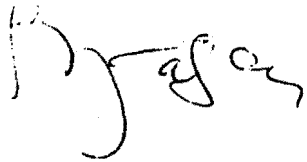
Buildings built nearly on top of each other in beach areas violate the public trust regarding our city's most valuable assets, our beaches and beach communities and destroys the integrity of our neighborhood.

Thank you once again for the opportunity to provide comment and to oppose this project.

Very truly yours,



Palisades Apartment Association



COASTAL COMMISSION

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