### CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA 7575 METROPOLITAN DRIVE, SUITE 103 SAN DIEGO, CA 92108-4402 (619) 767-2370





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#### STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approval with Conditions

APPEAL NO.: A-6-OCN-02-006

APPLICANT: Richard Sudek

PROJECT LOCATION: 1435 South Pacific Street, Oceanside, San Diego County.

APN 153-012-17

PROJECT DESCRIPTION: After-the-fact approval of a 576 sq. ft. addition to an existing 2,176 sq. ft. single-family residence on a 3,920 sq. ft. ocean fronting lot containing a riprap revetment. Also proposed is an at-grade deck and gas fire hearth seaward of the proposed addition.

APPELLANTS: Coastal Commissioners Sara Wan and Patricia McCoy.

#### **SUMMARY OF STAFF RECOMMENDATION:**

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed. Staff is recommending approval of the proposed project with special conditions. The main issues raised by this proposal relate to public view protection and public access related to the need for shoreline protection relative to public views. The proposed addition is four feet short of the maximum string line and is consistent with the certified LCP relative to protection of visual resources and community character and scale and will not set an adverse precedent resulting in the "walling off" of the coastline in this area. The applicant has completed a wave runup analysis which documents the existing and proposed home will be safe and not require more work to the revetment. The proposed addition will enclose at grade ground floor area and will not encroach any further seaward than the existing second story. Thus, view blockage, if any, will be minimal. A survey of the existing revetment confirms it would not result in adverse public access impacts. Also, as conditioned herein, the proposed improvements will not result in the revetment being augmented in the future in such a way that such

augmentation would occur seaward of the present revetment toe or on public property. Thus, the project can be found consistent with the new development policies of the certified LCP.

The motions for Substantial Issue can be found on Page 4 of the staff report. The motion for approval with conditions of the de novo review can be found on Page 9 of the staff report.

#### **STAFF NOTES:**

On January 15, 2002, Commissioners Wan and McCoy filed an appeal pertaining to the residential project. The applicant waived rights to a hearing within the prescribed 49 days of filing to facilitate the consolidation of the substantial issue and de novo phases of the hearing. The staff recommendation includes both the Substantial Issue and De Novo Staff Reports (if Substantial Issue is found). The standard of review is consistency with the certified City of Oceanside Local Coastal Program and the public access policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Oceanside Local Coastal Program (LCP) and certified Stringline Map; A-6-OCN-99-20/Wilt, A-6-OCN-99-133/Liguori, A-6-OCN-00-71/Alanis; A-6-OCN-01-088/Stoner; Revetment Survey--Skelly Engineering, dated March 2002.

#### I. Appellant Contends That:

The appellants contend that the project is inconsistent with several of the current policies and ordinances of the certified LCP pertaining to community character, protection of public views and public access. Specifically, the appellants contend that as approved by the City the project 1) extends to the limit of the string line which may result in adverse impacts on public views from nearby vertical access ways; 2) the City did not make any findings regarding the project's consistency with neighboring development, i.e., did not indicate the relationship of the size or bulk of the proposed structure to other structures in the project area as required by the LCP; and 3) the City failed to document the seaward extent of the existing revetment or to assure that the new development would be safe and not require additional protection.

#### II. Local Government Action:

On 7/12/2001 the City Planning Commission approved the project subject to conditions requiring the applicant to obtain a building permit for the existing after the fact residential addition and for the gas line to the gas fire hearth.

#### III. Appeal Procedures

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

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

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

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process is the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

#### IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolutions:

#### A. MOTION I:

I move that the Commission determine that Appeal No. A-6-OCN-02-006 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

#### STAFF RECOMMENDATION OF SUBSTANTIAL ISSUE:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

#### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission finds that Appeal No. A-6-OCN-02-006 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

#### V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Permit History. The proposal involves the after the fact approval of a 576 sq. ft. ground floor addition to an existing two story 2,176 sq.ft. single family residence on a 3,920 sq.ft. lot containing an existing riprap revetment. The proposed addition, which incorporates steel security shutters, is proposed on the seaward side of the home, at grade below the existing second story of the residence. The proposed addition extends approximately 89 feet, in line with the building face of the second story. The existing second story balcony extends approximately 93 feet seaward of Pacific Street which is the maximum length permitted by the LCP certified string line map. The proposal also includes an at grade deck and gas fire hearth seaward of the proposed residential addition that would extend to the existing on-site revetment.

The project site is located on the west side of South Pacific Street between Witherby and Morse Streets in the City of Oceanside. The site is designated Urban High Density (29-43 du/ac) and Residential Tourist (RT) in the certified Oceanside Local Coastal Program. The RT zone provides opportunities for tourist and year-round visitor-serving facilities, including permanent and transient residential and related uses within the City's coastal

zone. It allows single and multiple family structures. The RT zone is primarily designated on shorefront property to optimize public access to the beach.

Because the site is located between the first public road and the sea, the development approved by the City lies within the Coastal Commission appeals jurisdiction. The standard of review is consistency with the certified City of Oceanside Local Coastal Program and the public access and recreation policies of the Coastal Act.

- 2. <u>Visual Impacts/Compatibility/String line</u>. Three LUP Policies (#1, #4 and #8) of the "Visual Resources and Special Communities" Section of the certified Oceanside Land Use Plan (LUP) are applicable to the proposed development and state:
  - 1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.
  - 4. The City shall maintain existing view corridors through public rights-of-way;
  - 8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

Additionally, two objectives of the same section provide:

The City shall protect, enhance and maximize public enjoyment of Coastal Zone scenic resources.

The City shall, through its land use and public works decisions, seek to protect, enhance and restore visual quality of urban environment

The beachfront on this section of shoreline in Oceanside contains a mix of older, smaller houses that were built primarily in the 1950s and 1960s and newer, larger structures that have either replaced the older structures or have been built on the few remaining vacant lots on the beachfront. The existing house is similar in size and scale to development in the area, zoned Residential Tourist, which allows both single family and multiple family structures.

The certified LCP requires new development to be compatible in size, scope and scale to surrounding structures. Regarding size, scale and neighborhood compatibility issues raised by the appellants, the proposed project is similar in size to existing structures in the Residential Tourist (RT) zone, which contains a mix of single and multiple family structures. The LCP does not identify that new development must be within a certain size (i.e., square footage). Rather, it contains design guidelines and development standards that define the allowable building envelope of a project. Because all new development must conform to these standards, new development is assured of being compatible in height, scale, color and form with the surrounding neighborhood.

The approved project appears to meet existing LCP development standards and design guidelines related to height (35 feet maximum; 29 feet existing and no improvements proposed that would increase building height), lot coverage (45% maximum; 42% proposed and no improvements proposed that would increase lot coverage) and side-yard setbacks which would remain at three feet.

Regarding rear yard setbacks, the certified LCP contains a requirement that new development along the ocean not extend further seaward than a "string line". The goal of limiting new development to extend no further seaward than the string line is to restrict encroachment onto the shoreline and preserve public views along the shoreline. Section 1703 of the certified implementing ordinances (zoning code) addresses the string line and states:

Section 1703 (e) (Rear Yard Setbacks)

Notwithstanding any other provisions of this section, buildings or structures located on lots contiguous to the shoreline shall be compatible in scale with existing development and shall not extend further seaward than the line established on the "String line Setback Map", which is kept on file in the Planning Division.

Appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the String line Setback line, providing that they do not substantially impair the views from adjoining properties.

The certified "Coastal Development Design Standards" ("Preserving and Creating Views" section) of the City's Implementation Program identifies that:

2. Street rights-of-way carried through to the water and views along the waterfront provide a desirable sense of contact with the water.

The certified "String line Setback Map" was developed in 1983 by overlaying an imaginary string line on an aerial photo of the shoreline in the City of Oceanside. The map shows how far new development may extend towards the ocean. The string line map was based on existing building patterns, as well as anticipated future developments and remodels/expansions.

The proposed residential addition on the beach side of the property will extend 89 feet which is in line with the building face of the second story. The second story including the 4-foot second story balcony extends approximately 93 feet seaward of Pacific Street which is the maximum length permitted by the LCP certified string line map. Section 1703 of the certified implementing ordinances (zoning code) addresses the string line and states:

Notwithstanding any other provisions of this section, buildings or structures located on lots contiguous to the shoreline shall be compatible in scale with existing development and shall not extend further seaward than the line established on the "String line Setback Map", which is kept on file in the Planning

Division. Appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the String line Setback line, providing that they do not substantially impair the views from adjoining properties.

The Commission has found in other actions on appeallable developments in Oceanside that the maximum string line is not a development "right" the applicant is entitled to automatically. A-6-OCN-99-20, Wilt; A-6-OCN-99-033, Liguori; A-6-OCN-00-71, Alanis. The Commission has found instead that buildout to the maximum string line can only be achieved when found consistent with all other provisions of the certified LCP. In this case, important public views exist across the subject site from the street end at Witherby Street to the north and from Buccaneer Beach Park (Morse Street) to the south of the subject site. As the proposed addition will extend further seaward than the existing ground floor of the home to the maximum stringline, the project may result in adverse impacts on public views from the identified public areas. The City failed to address this issue in its approval. Thus, the Commission finds a substantial issue is raised regarding the conformity of the development with the visual resource policies of the certified LCP.

3. Shoreline Protective Device/Beach Encroachment/Public Access. Currently riprap exists along the shoreline to protect the subject site, as well as adjacent properties, from adverse storm conditions. According to City officials, the bulk of the existing shoreline protection on this part of the southern Oceanside shoreline was constructed at one time prior to the passage of the Coastal Act.

Section 19.B.18 of the certified Seawall Ordinance requires that shoreline protective devices not have an adverse impact on sand supply and coastal resources (public access).

Shoreline structures as defined in Article II shall be allowed when required to serve coastal dependent uses or to protect proposed or existing structures in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and other coastal resources, and where the construction is in conformance with the City's Local Coastal Plan.

Section 19.B.19 of the certified Seawall Ordinance (Access and Recreation) requires that:

The proposed project shall not interfere with the public's right of access to the sea where acquired through use of legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Every Coastal Development Permit issued for any development between the nearest public road and the sea or the shoreline of any body of water within the coastal zone shall include a specific finding that such development is in conformance with the public access and recreational policies of the City's Local Coastal Plan.

The certified LUP contains the following policy in its Shoreline Structures and Hazard Areas policy group.

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

Currently a riprap revetment exists along the shoreline portion of the lot. The certified LCP allows shoreline protective devices to protect existing or proposed development provided such devices are designed to minimize adverse impacts to sand supply and encroachment on to the beach. The structures must be designed to not interfere with access along the beach. The City in its approval authorized no work to the existing revetment. The certified LCP requires that shoreline protective devices not have an adverse impact on sand supply and coastal resources (public access). Future revetment work to protect the improvements could include the additional placement of stones seaward of the existing revetment. According to the assessor's parcel map, the mean high tide line defines the western property line of the lot. The Commission is concerned about further seaward encroachment by the revetment to protect the proposed new development as potential adverse impacts to public access could occur. The City's approval did not address this issue. Additionally, no findings were made that there is adequate area inland of the revetment to place additional rock protection if it should be necessary in the future.

The deck and fire hearth extend to the inland extent of the revetment. In addition, as a result of the proposed addition, the residence and improvements are seaward of pre-existing development and are more exposed to wave attack. For new beachfront development, the LCP provides the option to either conform to the City's seawall detail or provide a wave uprush study to determine whether new development will be adequately protected from wave uprush. However, the City did not address the existing riprap revetment, whether or not it is adequate to protect the existing home or whether it is adequate to protect the proposed seaward addition. No wave uprush study was prepared for the City's review and no findings were made regarding the need for additional shoreline protection to protect the proposed improvements. No findings were made find that the revetment complied with the seawall detail.

The LCP requires the city to make findings regarding the above issues. Section 19.B.19 of the certified Seawall Ordinance (Access and Recreation) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water within the coastal zone shall include a specific finding that such development is in conformance with the public access and recreational policies of the City's Local Coastal Plan. Because the City's approval does not state either that the proposed development is safe from wave uprush or that the development will not result in encroachments onto public beach which could adversely affect public

access, the Commission finds that a substantial issue exists with respect to the conformity of the development with the shoreline hazards, public access and recreation provisions of the LCP.

In summary, the City failed to analyze the development's conformity with LCP standards regarding public view blockage, protection of new development and the impacts of shoreline protective structures on public access. The city also failed to recognize past Commission precedent regarding the above issues. Thus, the proposal raises a substantial issue regarding consistency with the certified LCP.

#### STAFF RECOMMENDATION ON THE COASTAL PERMIT:

I. The staff recommends the Commission adopt the following resolution:

MOTION 1: I move that the Commission approve Coastal Development Permit No. A-6-OCN-02-006 pursuant to the staff recommendation.

#### STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified LCP and the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

#### II. Special Conditions.

The permit is subject to the following conditions:

1. <u>Final Surveyed Revetment Plans</u>. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit to the Executive Director for review and written approval, final revetment plans for the proposed project that have been approved by the City of Oceanside. Said plans shall be in substantial conformance with the site plan prepared by M.E. Mills, revised 8/22/00 and the

revetment survey dated March, 2000 by Skelly Engineering. The plans shall identify permanent benchmarks from the property line or another fixed reference point from which the elevations (toe and crown) and seaward limit of the revetment can be referenced for measurements in the future.

- 2. Future Development Restriction. This permit is only for the development described in coastal development permit No. A-6-OCN-02-006. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit No. A-6-OCN-02-006. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance of the house or revetment identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. A-6-OCN-02-006 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 3. Long-Term Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the beach and shoreline protection. The purpose of the plan is to monitor and record the changes in the beach profile fronting the site and to identify damage/changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to the following:
  - a. An evaluation of the current condition and performance of the revetment, addressing, among other things, the exposure of any geotextile material or underlining fabric, any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance.
  - b. Measurements taken from the benchmarks established in the survey as required in Special Condition #1 of CDP #A-6-OCN-02-006 to determine settling or seaward movement of the revetment and changes in the beach profile fronting the site.
  - c. Recommendations on any necessary maintenance needs, changes or modifications to the revetment to assure its continued function and to assure no seaward encroachment beyond the permitted toe.

The above-cited monitoring information shall be summarized in a report prepared by a licensed engineer familiar with shoreline processes and submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Oceanside after each winter storm season but prior to May 1st of each year starting with May 1, 2003.

The permittee shall undertake development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director and the City of Oceanside Engineering Department. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 4. Maintenance Activities. The permittee shall be responsible for the maintenance of the existing riprap revetment in its approved state. Based on the information and recommendations contained in the monitoring report required in Special Condition #3 of CDP #A-6-OCN-02-006 above, the permittee shall be responsible for removing any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe. If in the future it is determined that augmentation to the revetment is necessary, it shall occur, to the extent feasible, no further seaward than the existing revetment toe. The herein approved deck first shall be removed to accommodate any necessary augmentation prior to seaward extension. The permittee shall contact the Coastal Commission District Office immediately to determine whether such activities to maintain, repair, or augment the revetment require a coastal development permit.
- 5. Assumption of Risk. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 6. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL
  DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director:
  (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. Condition Compliance. WITHIN 120 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

#### II. Findings and Declarations:

The Commission finds and declares as follows:

1. Project Description/History. The proposal involves the after the fact approval of a 576 sq. ft. ground floor addition to an existing two story 2,176 sq.ft. single family residence on a 3,920 sq.ft. lot containing an existing riprap revetment. The proposed addition, which incorporates steel security shutters, is proposed on the seaward side of the home, at grade below the existing second story of the residence. The proposed addition extends approximately 89 feet, in line with the building face of the second story. The existing second story balcony extends approximately 93 feet seaward of Pacific Street which is the maximum length permitted by the LCP certified string line map. The proposal also includes an at grade deck and gas fire hearth seaward of the proposed residential addition that would extend to the existing on-site revetment.

The project site is located between Witherby Street and Morse Street in Oceanside. The site lies on top of the face of a wave cut sea cliff which backs a low sand and cobble beach. There are quarry stone revetments protecting the properties on either side of the subject site. Surrounding development consists of two-and – three story single-family and multi-family residential uses on small lots. The site is designated Urban High Density (29-43 du/ac) and Residential Tourist (RT) in the certified Oceanside Local Coastal Program.

The standard of review is the certified Oceanside Local Coastal Program and the public access and recreation policies of the Coastal Act.

- 2. <u>Visual Impacts/Compatibility/String line</u>. Three LUP Policies (#1, #4 and #8) of the "Visual Resources and Special Communities" Section of the certified Oceanside Land Use Plan (LUP) are applicable to the proposed development and state:
  - 1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.
  - 4. The City shall maintain existing view corridors through public rights-of-way;
  - 8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

Additionally, two objectives of the same section provide:

The City shall protect, enhance and maximize public enjoyment of Coastal Zone scenic resources.

The City shall, through its land use and public works decisions, seek to protect, enhance and restore visual quality of urban environment

Regarding rear yard (ocean) setbacks, the certified LCP contains a requirement that new development along the ocean not extend further seaward than a "string line". The goal of limiting new development to extend no further seaward than the string line is to restrict encroachment onto the shoreline and preserve public views along the shoreline. Section 1703 of the certified implementing ordinances (zoning code) provides:

Section 1703 (e) (Rear Yard Setbacks)

Notwithstanding any other provisions of this section, buildings or structures located on lots contiguous to the shoreline shall be compatible in scale with existing development and shall not extend further seaward than the line established on the "String line Setback Map", which is kept on file in the Planning Division.

Appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the String line Setback line, providing that they do not substantially impair the views from adjoining properties.

The certified "Coastal Development Design Standards" ("Preserving and Creating Views" section) of the City's Implementation Program identifies that:

2. Street rights-of-way carried through to the water and views along the waterfront provide a desirable sense of contact with the water.

The certified "String line Setback Map" was developed in 1983 by overlaying an imaginary string line on an aerial photo of the shoreline in the City of Oceanside. The map shows how far new development may extend towards the ocean. The string line map was based on existing building patterns, as well as anticipated future developments and remodels/expansions.

In its approval the City found the project would not extend beyond the limits of the 93foot string line as depicted on the certified String line Map. According to the approved
plans, the proposed addition and existing residence extends to 89 feet from the seaward
right of way of South Pacific. The second story balcony extends 93 feet which is the
maximum permitted by the string line map. As built, the proposed deck, gas line and gas
fire hearth extend approximately 8 feet seaward of the string line. The deck is
approximately one foot above grade and built flush to the existing revetment. The gas
fire hearth is approximately one foot above the deck and is also located immediately
adjacent to the revetment. The overall height of the deck and hearth is approximately 2
feet above grade. Section 1703 of the certified implementing ordinances states that

appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the String line Setback line, providing that they do not substantially impair the views from adjoining properties. In this case the structures are close to grade and should not substantially impair private views from adjoining properties.

The Commission has found in other actions on appeallable developments in Oceanside that the maximum string line is not a development "right" the applicant is entitled to automatically(A-6-OCN-99-20, Wilt; A-6-OCN-99-033, Liguori; A-6-OCN-00-71, Alanis). The Commission has found instead that buildout to the maximum string line can only be achieved when found consistent with all other provisions of the certified LCP, most importantly the visual resource policies, i.e., what, if any, adverse visual effect the proposed improvements would have on public coastal views. In this case, from beach level near the project site, there is no adverse visual impact as the existing revetment obstructs inland views as one walks seaward of it. While the applicant's house extends further seaward than the immediately adjacent buildings, the addition extends no further seaward than the existing residence and the second story balcony extends 4-feet seaward of the proposed addition and the second story building face. Thus, public views originating from the north at the Witherby Street vertical access way looking south to and beyond the project site and views originating from the south at the Morse street end (Buccaneer Beach) looking north to and beyond the project site towards the Oceanside Pier would not be significantly altered because the project's proposed visual appearance does not represent a major change in height, bulk or seaward encroachment over its existing condition as the existing second story above extends to the stringline. Thus, the proposed visual impact of the proposed improvements would not warrant a redesign to preserve public views.

Policy #8 of the LUP provides that all new development be compatible in height, scale, color and form with the surrounding neighborhood. The proposed addition to a single family residence is similar in size to existing structures in the Residential Tourist (RT) zone, which contains a mix of single and multiple family structures. Therefore, the project is consistent with the LCP requirement that development must be compatible in scale and form with the surrounding neighborhood.

In summary, the Commission finds the proposed project would not adversely affect up coast or downcast public views, is compatible in scale and form with existing development in the neighborhood and is consistent with LCP development and design standards. Thus, the Commission finds the project is consistent with the visual resource policies of the certified LCP.

3. <u>Shoreline Protective Device/Beach Encroachment</u>. Currently riprap exists along the shoreline to protect the subject site as well as adjacent properties from adverse storm conditions. According to City officials, most of the existing shoreline protection on this part of the southern Oceanside shoreline was constructed at one time prior to the passage of the Coastal Act.

Section 19.B.18 of the certified Seawall Ordinance requires that shoreline protective devices not have an adverse impact on sand supply and coastal resources (public access).

Shoreline structures as defined in Article II shall be allowed when required to serve coastal dependent uses or to protect proposed or existing structures in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and other coastal resources, and where the construction is in conformance with the City's Local Coastal Plan.

Section 19.B.19 of the certified Seawall Ordinance (Access and Recreation) requires that:

The proposed project shall not interfere with the public's right of access to the sea where acquired through use of legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Every Coastal Development Permit issued for any development between the nearest public road and the sea or the shoreline of any body of water within the coastal zone shall include a specific finding that such development is in conformance with the public access and recreational policies of the City's Local Coastal Plan.

The certified LUP contains the following policy in its Shoreline Structures and Hazard Areas policy group.

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

Currently a riprap revetment exists along the shoreline portion of the lot. The certified LCP allows shoreline protective devices to protect development provided such devices are designed to minimize adverse impacts to sand supply and encroachment on to the beach. The City authorized no work to the existing revetment and none is proposed with this application. However, future revetment work to protect the improvements from changing conditions, e.g., rising seal level or major storm surges, could trigger a request to augment the existing revetment seaward of its existing location. According to the assessor's parcel map, the mean high tide line defines the western property line of the lot. The Commission is concerned about further seaward encroachment by the revetment to protect the proposed new development as potential adverse impacts to public access could occur. Additionally the Commission is concerned that there might not be adequate area inland of the revetment to place additional rock protection if it should be necessary in the future.

In response to Commission staff concerns regarding the location of the revetment and its impact on the siting of the proposed improvements (patio enclosure, deck, firepit), the applicant submitted a wave uprush study. The study indicates that the proposed addition will be exposed to possible flooding and if the beach erodes to its historic condition (it is currently wider than normal due to recent sand nourishment), there could be a noticeable amount of water washing up onto the deck and firepit. The study notes, however, that the existing porous, open slat wood deck allows water to drain through the flooring and exit the site as the waves recede so no adverse impacts to the subject site or the neighbors from flooding is anticipated. Regarding the addition, the study found the deck would convey some overtopping water to the addition behind it. The study found that if not redirected back into the ocean or along the sides of the structure, the uprush could lead to nuisance damage and minor flooding of the first floor. The study concluded, however, that the security/flood shields that cover the seaward face of the patio enclosure mitigate the potential for nuisance damage. The wave study further concludes that the existing revetment in its present configuration and condition is adequate to protect the improvements.

In response to staff concerns regarding the location of the revetment relative to public property (i.e., the Mean High Tide Line [MHTL]), the applicant prepared a survey of the existing seaward extent of the revetment. The survey indicates the buried toe of the revetment is at approximate elevation 2.5 feet Mean Sea Level (MSL) which is approximately 45-feet seaward of the string line as measured on February 28, 2002 and 105 feet landward of elevation 2.1 mean sea level (MSL) as measured on February 28, 2002. Thus, no adverse impacts to public access would occur as the revetment is located significantly landward of the MHTL. While the beach profile changes over the course of the year, this beach is relatively stable. Thus, there should be sufficient distance between the toe and MHTL in light of minor seasonal variations in the beach profile. However, as the tidal elevation increases and the MSL elevation increases, the mean high tide line may migrate inland to the revetment even if the revetment does not migrate seaward through raveling and stone displacement. Therefore, should revetment work be proposed in the future, there must be adequate area landward of the revetment to accommodate such work to ensure no public access impacts would occur. As noted, the proposed deck extends to the inland extent of the revetment so there is no unimproved area landward of the revetment to accommodate any future augmentation of the revetment. While the survey indicates that the maintenance of the shore protection does not require any further seaward encroachment of the structure footprint and that all future maintenance should take place within the existing footprint of the structure, the possibility exists that the existing revetment may require maintenance or augmentation in the future that could take place within the existing footprint of the structure. The Commission notes that the LCP allows a revetment as high as +16MSL (seawall detail) and the existing revetment averages 14.5 MSL. Therefore, the existing revetment could be built higher consistent with the LCP. As such it may eliminate the need for further seaward encroachment of the revetment and the associated adverse public impacts to public access to protect the proposed improvements. However, while the Commission's engineer indicates that increasing the height of the revetment is possible without further seaward encroachment of the revetment toe, it would require the revetment to be rebuilt at a steeper slope to

provide adequate protection without going seaward with more riprap. This alternative would be costly and possibly considered infeasible. It may be less costly to allow a portion of the existing after the fact deck to be sacrificed to accommodate any future augmentation of the revetment. In any event, the Commission finds that to ensure that any future revetment augmentation occurs no further seaward than the present revetment toe to the extent feasible, the deck must be used as additional area to accommodate any expansion of the revetment beyond its existing footprint if necessary. The Commission has found in several permit decisions in the area (CDPs A-6-OCN-99-133, Liguori; A-6-OCN-00-71, Alanis and A-6-OCN-01-88/122, Stoner) that such an approach is necessary for the Commission to find that new development that goes seaward of existing development can be found consistent with the public access policies of the Oceanside LCP and similar provisions of the Coastal Act.

Additionally, the Commission is interested in establishing the seaward extent of shoreline protective devices in this area to preserve public access. The survey indicates the revetment toe is approximately 45- feet west of the existing building front/stringline. However, the building is not a permanent fixed reference point and as such is not an appropriate benchmark. Special Condition #1 requires that the surveyed toe of the revetment be shown on a final site plan to establish the seaward extent of the permitted revetment. The survey must document the buried toe of the revetment relative to a fixed reference point such as a surveyed property line or street monument. It must be drawn on a beach profile with cross-section that shows the configuration of the existing rock in relation to the current level of beach sand to determine the elevation of visible rock and the toe of buried rock. The Commission has previously imposed this requirement in CDPs A-6-OCN-99-133, Liguori; A-6-OCN-00-71, Alanis; and A-6-OCN-01-88/122, Stoner.

Special Condition #3 requires a long-term monitoring plan to monitor and record the changes in beach profile fronting the site and to identify damage/changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. This condition will assure revetment maintenance will occur in a timely and orderly way and without adverse impacts to public access.

Special Condition #4 provides that the permittee is responsible for removing any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe. The permittee must first contact the Coastal Commission district office to determine if a coastal development permit is necessary. If, in the future it is determined that augmentation to the revetment is necessary, it shall occur no further seaward than the existing revetment toe. If necessary, allowed portions of the herein approved deck and fire pit shall be removed to accommodate any necessary augmentation. The permittee shall contact the Coastal Commission District Office immediately to determine whether such activities require a coastal development permit.

Although the wave uprush study finds the existing revetment would protect the proposed project, there is still a possibility of damage from wave uprush from storm surge and high

tides particularly in the future as sea level continues to rise. Therefore, Special Condition #5 requires the applicant to execute assumption of risk documents, providing that the applicant understands that the site is subject to hazards based on its location on the coast and that the applicant assumes the risk of developing the property.

To ensure that future owners of the property receive notice regarding the requirements of this permit, Special Condition #6 requires recordation of the conditions imposed by this permit.

In summary, while there is an existing riprap revetment, no modifications are proposed or necessary to accommodate the proposed improvements at this time. However, the special conditions make it clear than any future maintenance to the revetment must be done on private property and that monitoring of the revetment's performance is necessary to avoid further encroachment of the revetment on the beach. As conditioned, the Commission finds the proposed project conforms to the certified Oceanside LCP.

4. Public Access and Recreation. Because the proposed development is located between the sea and the first public road (South Pacific Street), Section 30604(c) of the Coastal Act requires the Commission to find that the development is consistent with the public access and recreation policies of the Coastal Act. Many policies of the Coastal Act address the provision, protection and enhancement of public access to and along the shoreline, in particular, Sections 30210, 20211, 30212.5, 30221, 30223 and 30252. These policies address maintaining the public's ability to reach and enjoy the water, preventing overcrowding by providing adequate recreational area, protecting suitable upland recreational sites, and providing adequate parking or transit facilities for public use.

The certified Oceanside LUP also has several policies which require public access with new development. Policy #1c states:

When a major private development occurs between Wisconsin Street and the southerly terminus of Pacific Street, require the owner to dedicate and construct vertical pedestrian access. Major development shall mean any development with 70 feet or more or ocean frontage, or duplex/multi-family development. Access need not be provided if existing vertical public access exists within 250 feet either to the north of south of the proposed development.

The subject site is located within the area described above but the lot is only 30-feet wide. Therefore, it is not subject to the above requirement. Additionally, because the lot is occupied and because of the existing revetment, there is no evidence of public use of the site to access the beach. Lateral access is available to the public along the beach seaward of the revetment and the proposed development will not result in any changes to existing public access. Vertical access to the public beach is provided about 350 feet south of the project site at Buccaneer Beach and approximately 550-ft. north of the project at Witherby Street. Because adequate vertical and lateral access occur in the project area, the Commission finds the project is consistent with the above LUP policy and the Coastal Act.

5. <u>Unpermitted Development</u>. Unpermitted development has occurred on site without the required coastal development permit consisting of a 576 sq. ft. ground floor addition and an at grade deck and gas fire hearth. The City's Notice of Final Action indicated the project was after the fact. The applicant is requesting after-the-fact approval for all existing unpermitted development on site. Special Condition #7 requires that within 90 days of Commission action on this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Although development has taken place without the benefit of a coastal development permit, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

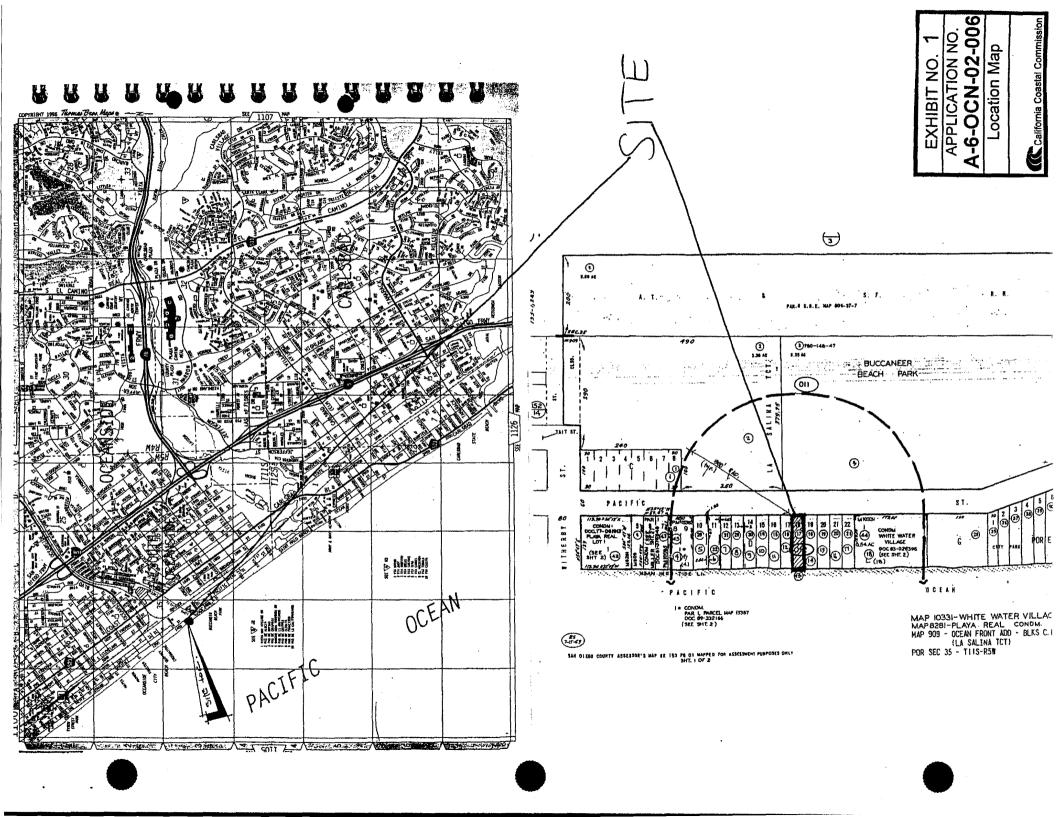
The proposed project has been conditioned to be consistent with the visual, public access and hazard policies of the Coastal Act and the Oceanside LCP. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of CEQA.

#### **STANDARD CONDITIONS:**

1. <u>Notice of Receipt and Acknowledgment</u>. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

- 2. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment</u>. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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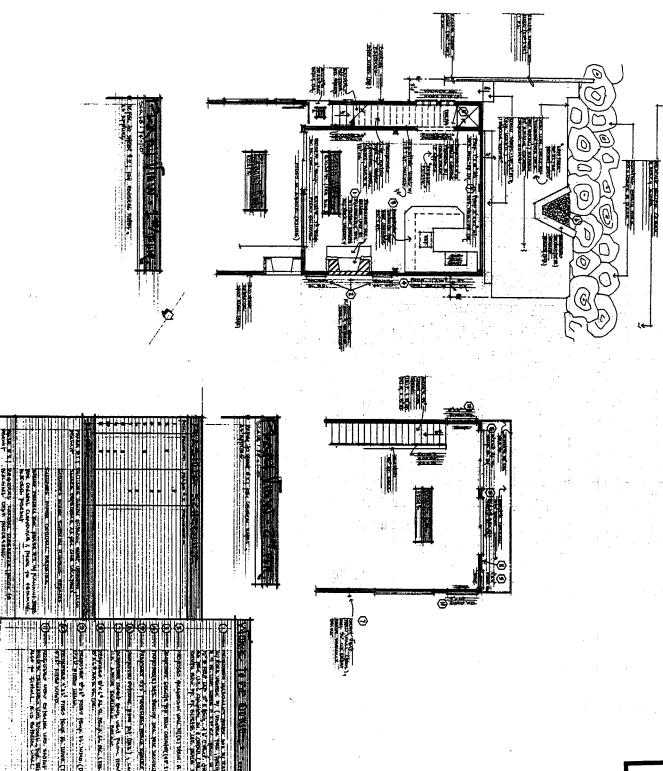


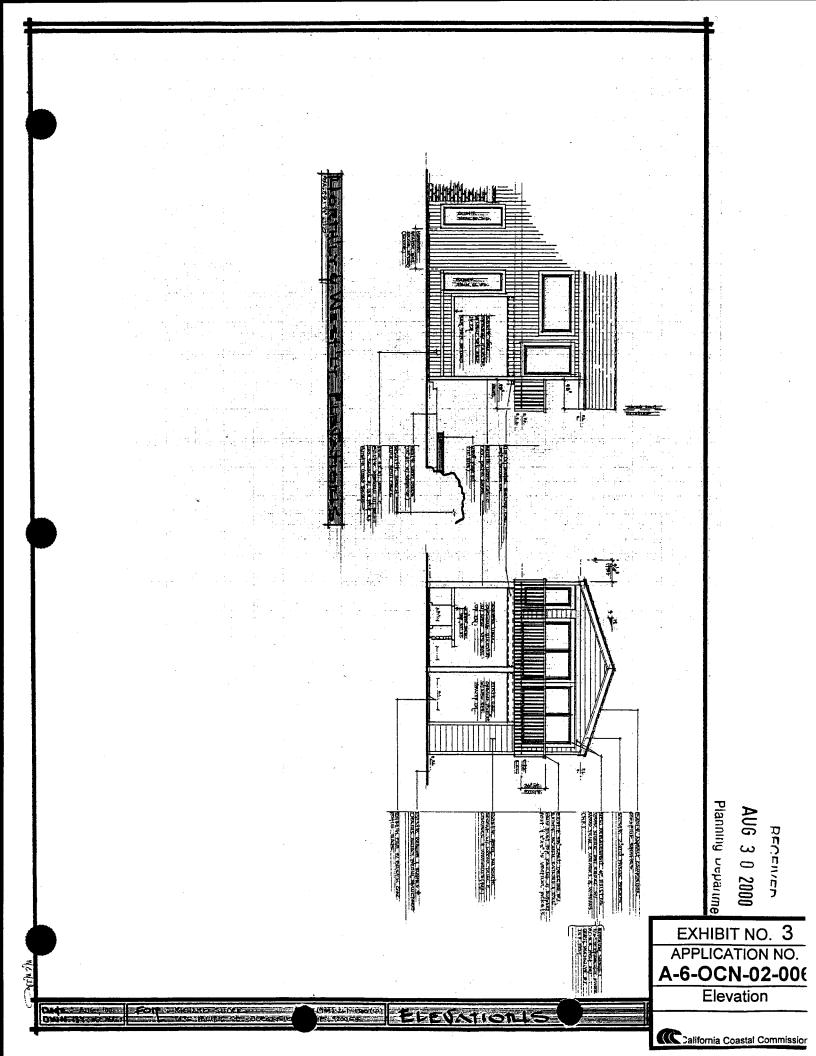
EXHIBIT NO.

APPLICATION NO.

A-6-OCN-02-006

Site Plan

California Coastal Commission



#### CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA 7575 METROPOLITAN DRIVE, SUITE 103 SAN DIEGO, CA 92108-4402 (619) 767-2370



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name:

Sara Wan

Mailing Address:

22350 Carbon Mesa Rd.

Malibu, CA 90265

Phone Number:

310) 456-6605

SECTION II. Decision Being Appealed

- 1. Name of local/port government: Oceanside
- 2. Brief description of development being appealed: A 576 sq. ft. patio enclosure addition with security shutters within the footprint of the existing residential structure; installation of a gas line, a gas fire hearth and on grade deck platform.
- 3. Development's location (street address, assessor's parcel no., cross street, etc.) 1435 South Pacific Street, Oceanside
- 4. Description of decision being appealed:

a. Approval; no special conditions:

b. Approval with special conditions:

c. Denial:

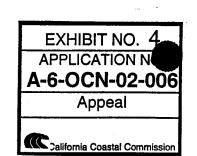
Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: <u>A-6-OCN-02-006</u>

DATE FILED: 1/15/02

DISTRICT: San Diego



# 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		
Date of local government's decision: 12/17/01						
Local government's file number (if any): RC-9-00						
SECTION III. Identification of Other Interested Persons						
Give th necessa		es and addresses of the following parti	ies. (Us	e additional paper as		
Name a	nd mai	iling address of permit applicant:				
Richard 4 Hasti Laguna	ngs	<u>I, CA 92677</u>				

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.

### SECTION IV. Reasons Supporting This Appeal

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

# APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT Page 3

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

See Attachment A -- Sudek Appeal Dated 1/15/02

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.

(Document2)

#### CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
DIEGO, CA 92108-4402
767-2370



#### ATTACHMENT "A'--Sudek Appeal

The proposal involves the after the fact approval of a 576 sq. ft. ground floor patio enclosure addition to an existing two story 2,176 sq.ft. single family residence on a 3,920 sq.ft. oceanfronting lot containing an existing riprap revetment. The proposed patio enclosure will occur on the seaward (beach) side of the home, below the western most portion of the second story of the residence. The proposal also includes an at grade deck and gas fire hearth seaward of the proposed residential addition. The project site is located on the west side of South Pacific Street between Witherby and Morse Streets in the City of Oceanside. The existing house is similar in size and scale to development in the area, zoned Residential Tourist, which allows both single family and multiple family structures.

The proposed conversion to living space on the beach side of the property will extend to the maximum limits of the stringline as depicted on the certified Stringline Map (approx. 93 feet from the seaward right of way of South Pacific Street). Section 1703 of the certified implementing ordinances (zoning code) addresses the stringline and states:

Notwithstanding any other provisions of this section, buildings or structures located on lots contiguous to the shoreline shall be compatible in scale with existing development and shall not extend further seaward than the line established on the "Stringline Setback Map", which is kept on file in the Planning Division. Appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the Stringline Setback line, providing that they do not substantially impair the views from adjoining properties.

The Commission has found in other actions on appeallable developments in Oceanside that the maximum stringline is not a development "right" the applicant is entitled to automatically. The Commission has found instead that buildout to the maximum stringline can only be achieved when found consistent with all other provisions of the certified LCP. In this case, important public views exist across the subject site from the street end at Witherby Street to the north and from Buccaneer Beach Park to the south of the subject site. Thus, as the proposed patio enclosure will extend further seaward than the existing ground floor of the home, the project may result in adverse impacts on public views from the identified public areas. The City failed to address this issue in its approval.

The deck and fire hearth extend to the inland extent of the revetment. In addition, as a result of the conversion of the ground floor patio into livable area, the residence and improvements are seaward of existing development and are more exposed to wave attack. For new beachfront development, the LCP provides the option to either conform to the City's seawall detail or provide a wave uprush study to determine whether new development will be adequately protected from wave uprush. However, the City

Attachment A - Sudek Appeal January 15, 2002 Page 2

approval did not address the existing riprap revetment, whether or not it is adequate to protect the existing home or whether it is adequate to protect the proposed seaward addition. No findings were made regarding the need for additional shoreline protection to protect the proposed improvements.

The certified LCP requires that shoreline protective devices not have an adverse impact on sand supply and coastal resources (public access). Future revetment work to protect the improvements could include the additional placement of stones seaward of the existing revetment. According to the assessor's parcel map, the mean high tide line defines the western property line of the lot. The Commission is concerned about further seaward encroachment by the revetment to protect the proposed new development as potential adverse impacts to public access could occur. The City's approval did not address this issue. Additionally, no findings were made that there is adequate area inland of the revetment to place additional rock protection if it should be necessary in the future.

In summary, the City failed to analyze the development's conformity with LCP standards regarding public view blockage, protection of new development and the impacts of shoreline protective structures on public access. The city also failed to recognize past Commission precedent regarding the above issues. Thus, the proposal raises a concern regarding consistency with the certified LCP.

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EXHIBIT NO. 5

APPLICATION NO.

A-6-OCN-02-006

Conditions of
Approval

Pages 1-6

California Coastal Commission

WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amount that will be owing when such fee becomes due and payable;

WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code and the City expressly reserves the right to amend the fees and fee calculations consistent with applicable law;

WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law;

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020;

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

## **FINDINGS**:

## For the Regular Coastal Permit:

- 1. That the project conforms to the Local Coastal Plan, including the policies of that plan.
  - -- That the proposed project is consistent with the policies of the Local Coastal Program as implemented through the City Zoning Ordinance.
- 2. That all development within the appealable area as identified in the Local Coastal Plan conforms to the public access and recreation policies of Chapter 3 of the Coastal Act.
  - The proposed project will not obstruct any existing or planned public beach access. Therefore, the project is in conformance with the policies of Chapter 3 of the Coastal Act.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve Regular Coastal Permit (RC-9-00) subject to the following conditions:

## Building:

- Applicable Building Codes and Ordinances shall be based on the date of submittal for Building Department plan check.
- 2. The granting of approval under this action shall in no way relieve the applicant/project from compliance with all State and local building codes.
- 3. The developer shall monitor, supervise and control all building construction and supportive activities so as to prevent these activities from causing a public nuisance, including, but not limited to, strict adherence to the following:
  - Building construction work hours shall be limited to between 7 a.m. and 6 p.m. Monday through Friday, and on Saturday from 7 a.m. to 6 p.m. for work that is not inherently noise-producing. Examples of work not permitted on Saturday are concrete and grout pours, roof nailing and activities of similar noise-producing nature. No work shall be permitted on Sundays and Federal Holidays (New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, Christmas Day) except as allowed for emergency work under the provisions of the Oceanside City Code Chapter 38 (Noise Ordinance).
  - b) The construction site shall be kept reasonably free of construction debris as specified in Section 13.17 of the Oceanside City Code. Storage of debris in approved solid waste containers shall be considered compliance with this requirement. Small Amounts of construction debris may be stored on site in a neat, safe manner for short periods of time pending disposal.
- 4. All required light and ventilation for the family room shall be provided by other than openings into the ground floor enclosed patio.

## Engineering:

5. Any broken pavement, concrete curb, gutter or sidewalk along or any damaged during construction of the project, shall be repaired or replaced as directed by the City Engineer.

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## Fire:

6. Plans shall be submitted to the Fire Prevention Bureau for plan check review and approval prior to the issuance of building permits.

## Planning:

- 7. This Regular Coastal Permit shall expire on December 17, 2003, unless implemented as required by the Zoning Ordinance.
- 8. This Regular Coastal Permit approves only a 576 square foot patio enclosure addition with security shutters, installation of a gas line, a gas fire hearth and a on grade deck platform as shown on the plans and exhibits presented to the Planning Commission for review and approval. No deviation from these approved plans and exhibits shall occur without Planning Department approval. Substantial deviations shall require a revision to the Regular Coastal Permit or a new Coastal Permit.
- 9. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to the issuance of building permits. The covenant shall provide that the property is subject to this Resolution, and shall generally list the conditions of approval.
- 10. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.
- 11. Failure to meet any conditions of approval for this development shall constitute a violation of the Regular Coastal Permit.
- Unless expressly waived, all current zoning standards and City ordinances and policies in 12. effect at the time building permits are issued are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification, and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.
- 13. The exterior steel shutters and gas line to the existing gas fire hearth shall obtain a building permit from the Building Department. These shall be shown on plans submitted to the Building Department and Planning Department.

1 Water Utilities: 2 The developer will be responsible for developing all water and sewer facilities necessary to 14. 3 this property. Any relocation of water and/or sewer lines is the responsibility of the 4 developer. 5 PASSED and ADOPTED Resolution No. 2001-P50 on December 17, 2001 by the 6 following vote, to wit: 7 AYES: Barrante, Miller, Schaffer, Hartley, Parker and Bockman 8 None NAYS: 9 10 ABSENT: Chadwick 11 ABSTAIN: None 12 13 George Barrante, Chairman 14 Oceanside Planning Commission 15 ATTEST: 16 17 18 Gerald S. Gilbert, Secretary 19 I, GERALD S. GILBERT, Secretary of the Oceanside Planning Commission, hereby certify that 20 this is a true and correct copy of Resolution No. 2001-P50. 21 22 Dated: December 17, 2001 23 24 25 26 27 28

# CITY OF OCEANSIDE PLANNING DEPARTMENT

## **NOTICE OF EXEMPTION**

TO: X. RECORDER/COUNTY CLERK COUNTY OF SAN DIEGO P.O. BOX 1750					
SAN DIEGO, CA 92112-4147					
PROJECT TITLE AND FILE NUMBER: SUDEK RESIDENCE (RC-9-00)					
PROJECT LOCATION - SPECIFIC: 1435 South Pacific Street	PROJECT LOCATION - GENERAL: City of Oceanside				
DESCRIPTION OF NATURE, PURPOSE AND BENEFICIARIES OF PROJECT: Remodeling of an existing single family residence.					
NAME OF PUBLIC AGENCY APPROVING PROJECT: City of Oceanside					
NAME OF PERSON(S) OR AGENCY CARRYING OUT PROJECT: Richard Sudek 4 Hastings					
Laguna Nigel, CA 92677					
Exempt Status per the Guidelines to Implement the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et. al.):					
_NOT SUBJECT TO CEQA PER THE GENERAL RULE, SECTION 15061(B)(3)					
_STATUTORY EXEMPTION PER ARTICLE 18, SECTION(S)					
X CATEGORICAL EXEMPTION PER ARTICLE 19, SECTION(S) 15303					
REASONS WHY PROJECT IS EXEMPT:  The project involves only the construction of a deck and related improvements that will have no impact to the site or surrounding area.					
Contact Person: Jerry Hittleman, Senior Planner	July Hille December 10, 2001				
	SIGNATURE DATE For: Gerald felibert, Planning Director				