

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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**Fri 9b**

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STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Oceanside

RECORD PACKET COPY

DECISION: Approval with Conditions

APPEAL NO.: A-6-OCN-01-122

APPLICANT: Dr. William Stoner

Agent: Eitan Aharoni

PROJECT DESCRIPTION: Demolition of a 1,900 sq. ft. duplex and construction of a two-story, 29-foot high 3,862 sq. ft. single-family residence, garage, patio and deck on a 4,875 sq.ft.blufftop lot containing an existing riprap revetment. Approximately 150 cubic yards of imported fill is proposed.

PROJECT LOCATION: 1105 South Pacific Street, Oceanside, San Diego County.
APN 152-075-0200

APPELLANTS: A-6-OCN-01-122/Commissioners Wan and 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 NOTES:

On June 7, 2001 Commissioners Kruer and McCoy filed an appeal of the City's approval pertaining to the time extension of the residential development of an oceanfront lot (A-6-OCN-01-088) citing that the project was inconsistent with the certified LCP regarding scale and character, public view blockage and the impacts of shoreline protective structures on public access.

On August 2, 2001 Commissioners Wan and McCoy filed an appeal pertaining to the City's original approval of the residential project (A-6-OCN-01-122) for the same reasons identified in the Commission's appeal of the time extension. 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).

Both appeals will be heard separately at the Commission's February, 2002 hearing. Staff is recommending No Substantial Issue on the appeal of the time extension (A-6-)CN-01-088) because the Commission's action on the appeal of the City's original approval will render the extension of the City-issued moot. 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), Regular Coastal Permit RC-11-98, Variance V-7-98, A-6-OCN-99-20/Wilt, A-6-OCN-99-133/Liguori, A-6-OCN-00-71/Alanis, A-6-OCN-01-088/Stoner, Limited Geotechnical Investigation and Evaluation of Existing Shoreline Protection by Anthony-Taylor Consultants, dated January 18, 1999

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 stringline which may result in adverse impacts on public views from nearby vertical accessways; 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 not require additional protection seaward of the existing alignment in the future.

II. Local Government Action:

On February 22, 1999 the City approved the project subject to conditions, however, it did not send a notice of final action regarding its approval to the Commission. The City subsequently approved a time extension on May 7, 2001. The project was approved with conditions requiring the applicant to assume the liability of developing at an oceanfronting site and a condition that limits the maximum height of the roof tower element to not exceed 37 feet. The City sent a notice of final action regarding the extension to the Commission. In response to a request from Commission staff, the City subsequently provided the Commission with a notice of final action regarding the original permit.

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 appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

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

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

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

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

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-01-122 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-01-122** 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

1. Project Description/Permit History. Proposed is the demolition of a 1,900 sq. ft. duplex and construction of a two-story, 29-foot high 3,862 sq. ft. single-family residence, garage, patio and deck on a 4,875 sq.ft. blufftop lot containing an existing riprap revetment. Approximately 150 cubic yards of imported fill is proposed.

The City approved a variance to allow an eleven-foot section of the roof to encroach 2-feet above the 27-foot height limit (Variance V-7-98). An architectural feature (stairway tower) was also approved to 37 feet high and occurs at approximately the midpoint of the roofline. However, the City found the tower was consistent with the zoning ordinance as a permissible exception to the base height limitation.

The project site is located on the west side of South Pacific Street between Forster Street and Oceanside Boulevard in the City of Oceanside. The site is a low sloping blufftop that drops moderately at the face of the bluff to an existing riprap revetment; the bluff is supported by an existing 10-foot high retaining wall which would remain. The revetment extends across the neighboring properties to the north and south with an average height of 18 feet above Mean Sea Level (MSL) and crest width of 3 to 5 feet. 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 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.

On February 22, 1999 the City approved the coastal development permit for the project. However, the Notice of Final Action (NOFA) from the City was never sent to the Commission's San Diego office as required. The development permit was never issued and the City subsequently approved a time extension of the coastal development permit on May 7, 2001. On May 23, 2001 the San Diego office received the NOFA on the time extension. On June 1, 2001 a copy of the NOFA for the original coastal development permit was faxed by the City to the San Diego office. However, Section 13571 of the Commission's Code of Regulations and the City's Coastal Permit Handbook identifies that the local government shall notify the Commission by first class mail of its action. Staff's June 4, 2001 letter indicated that a NOFA must be received by first class mail so that the 10-day appeal period could be established. On June 7, 2001 Commissioners Kruer and McCoy appealed the time extension for the coastal development permit. On July 10, 2001 the Commission opened and continued the time extension for the project (A-6-OCN-01-88). On July 19, 2001 the San Diego office received the NOFA on the original project, which Commissioners Wan and McCoy subsequently appealed. On July 24, 2001 the applicant waived the 49-day hearing requirement for the project to facilitate the hearing of both the substantial issue and de novo phases of the hearings at the same time.

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. Visual Impacts/Compatibility/Stringline. 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. In this case, the subject lot contains an existing 1,900 sq. ft. duplex and would replace it with a new 3,862-sq. ft. single-family residence. The adjacent building to the north is a two-story three-unit condominium structure. The adjacent building to the south is a two story single family dwelling. The buildings on the inland side of Pacific Street are mainly two and three story condominiums.

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.

Regarding height, the certified LCP requires that building height be no higher than 35-feet, unless approved by a Conditional Use Permit (CUP) in the RT zone.

Section 3203. Height of Buildings. Building height is limited to 35 feet unless a Conditional Use Permit is issued in accordance with Article 15 (Conditional Use Permits). Height standards in the Redevelopment Area are governed by the Development Criteria and Land Use Regulations. No building or structure shall exceed any adopted height restrictions that may appear in any other adopted Plan or Policy of the City including Proposition A passed by the voters April 13, 1982.

At the time the Commission certified Section 3203, no adopted plan or policy established a different height limit for this property. The City subsequently changed its zoning code to establish a 27-foot height limit, but never submitted an amendment to lower the height limit in the certified LCP. For the purposes of Coastal Commission review, therefore, the height limit is 35 feet. The approved project appears to meet existing LCP development standards and design guidelines related to height (35 required; 29 feet proposed), lot coverage (45% required; 42% proposed) and rear- and side-yard setbacks. The project has only a 2-foot front-yard setback instead of the 10-foot setback required by the certified LCP. The 2-foot setback, however, is consistent with the prevailing pattern of development in the neighborhood and with the uncertified front-yard setback

requirements of the City's zoning code. No coastal views are affected by using a 2-foot setback. However, while the City found the project was consistent with these requirements, the City failed to find the proposed project was compatible in scale and form. The Commission has previously interpreted LUP Policy #8 as requiring the City to provide an express finding regarding neighborhood compatibility (A-6-OCN-99-20, Wilt; A-6-OCN-99-033, Liguori; A-6-OCN-00-71, Alanis). Because the finding was not made, the Commission finds that a substantial issue exists with respect to conformity of the development with the visual resource policies of the certified LCP.

Regarding rear yard setbacks, the certified LCP contains a requirement that new development along the ocean not extend further seaward than a "stringline". The goal of limiting new development to extend no further seaward than the stringline 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 stringline 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 "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 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 "Stringline Setback Map" was developed in 1983 by overlaying an imaginary stringline 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 stringline 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 71-foot stringline as depicted on the certified Stringline Map. According to the approved plans, the proposed residence extends to 71 feet from the seaward right of way of South Pacific which is the maximum permitted by the stringline map. A patio and deck was approved seaward of the stringline. However, 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 Stringline Setback line, providing that they do not substantially impair the views from adjoining properties. In this case the structures are

close to grade and as such should not substantially impair the views from adjoining properties or along the beach.

The Commission has found in other actions on appealable developments in Oceanside that the maximum stringline 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 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 Forster Street access stairway to the north and the Oceanside Blvd. vertical accessway to the south of the subject site. LUP policy #1 provides that in areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment. Additionally, LUP policy objectives provide scenic resources and visual quality shall be protected, enhanced and restored in the coastal zone.

According to the City's approval the proposed structure will extend seaward the same distance from Pacific Street as the multi-family structure on the north, about 71 feet. However, the proposed structure extends approximately 20 feet seaward of the existing duplex on the lot and 2 feet seaward of the existing single family structure to the south. Because the proposed project would extend further seaward than the current structure on the site and the structure to the south, the project may result in adverse impacts on public views from the Oceanside Blvd. public accessway to the south, where the existing pattern of shoreline development is setback more than the proposed structure. Upcoast views may be blocked from this accessway if the subject structure were allowed to buildout to the maximum stringline as approved by the City. 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. 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. Although no work to the existing revetment was authorized by the City in its approval, the City required the applicant to prepare a "precise Grading and Private Improvement Plan" to reflect all pavement, flatwork, landscaped areas etc. and footprints of all structures including the onsite revetment. Relative to future work to the revetment, the City required that a wave study for the project be done or that the City's standard seawall detail be used relative to maintaining the existing revetment. The seawall detail is a schematic of the typical revetment along the City's shoreline. The City has taken the position that conformance with the seawall detail assures conformance with the LCP in regards to designing new revetments or maintaining existing ones. However, no LCP policy or ordinance identifies the seawall detail as the design standard of review.

A geotechnical report was prepared in 1999 which analyzed the existing revetment and determined it was functioning as intended. The report noted that the seawall was constructed generally in conformance with the seawall detail "with the exception of smaller rip rap materials locally exposed near the face of the structure." The recommendations section of the report noted that those smaller rip rap materials suggested some shifting since placement or possible variations in the original placement but that "unless an increased level of confidence as to its internal construction is desired, the existing rip rap structure appears to be adequate". It is unclear whether this last statement is in regards to the adequacy of the revetment to protect the proposed home or its consistency with the seawall detail. Additionally, the report did not include a wave

uprush analysis to address the adequacy of the existing revetment to protect the proposed project. In any event, the City's approval did not address the adequacy of the existing revetment to protect the proposed residence in its more seaward location or that such protection was the minimum necessary to not adversely affect public access or recreation as required by the above policy and ordinance provisions.

The concrete patio and deck that were approved seaward of the proposed residence have substantial below grade footings and could be considered permanent structures that may be subject to erosion in the future. Similar to the above discussion, absent an analysis, it cannot be determined whether any further augmentation of the revetment is or will be necessary to protect the proposed home or the proposed deck/patio and its potential impacts on public access and recreation.

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.

I. STAFF RECOMMENDATION ON THE COASTAL PERMIT:

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed project with special conditions. The main issues raised by this proposal have been addressed by a review of the Oceanside LCP regarding application of the certified "Stringline Setback Map." While the proposed structure is proposed near the maximum stringline, it 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. A survey of the existing revetment confirms it would not result in adverse public access impacts. Also, as conditioned herein the proposed siting of the residence will not result in the revetment being augmented in such a way that such augmentation would occur on public property. Thus, the project can be found consistent with the new development policies of the certified LCP. Staff recommends the Commission approve conditions requiring final house and revetment plans and a survey to establish the seaward extent of shoreline protection on this lot so that any future maintenance will be done on private property, a long term monitoring program to document changes to the revetment and its

effect on the shoreline and other conditions consistent with the Commission's review of shorefront development, including water quality provisions.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Oceanside Local Coastal Program (LCP); A-6-OCN-99-20/Wilt, A-6-OCN-99-133/Liguori, A-6-OCN-00-71/Alanis; A-6-OCN-01-088/Stoner; Limited Geotechnical Investigation and Evaluation of Existing Shoreline Protection by Anthony-Taylor Consultants, dated January 18, 1999; Wave Uprush Study —Stoner Residence by Anthony-Taylor Consultants, dated October 31, 2001

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

MOTION 1: *I move that the Commission approve Coastal Development Permit No. A-6-OCN-01-122 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. Final Surveyed Revetment Plans. 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 The Arcom Group, date stamped received 7/6/2001 and the revetment survey dated 10/1/2001 by Anthony Taylor Consultants. 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 Deed Restriction.

This permit is only for the development described in coastal development permit No. A-6-OCN-01-122. 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. Accordingly, any future improvements to the single-family residence authorized by coastal development permit No. A-6-OCN-01-122, including but not limited to repair and maintenance of the revetment identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. A-6-OCN-01-122 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

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 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-01-122 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 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, 2002.

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 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-01-122 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. The permittee shall contact the Coastal Commission District Office immediately to determine whether such activities require a coastal development permit.

5. Storage and Staging Areas/Access Corridors. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall. Construction equipment shall not be washed on the beach.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends or holidays between Memorial Day weekend and Labor Day of any year.

- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Assumption of Risk.

By acceptance of this permit, the applicant, on behalf of itself and its successors and assigns, acknowledges and agrees (i) that the site may be subject to hazards from wave uprush 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.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Final Building Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final building plans in substantial conformance with the submitted plans prepared by The Arcom Group, date stamped received 7/6/2001, and have been approved by the City of Oceanside Building Department. Said final building plans shall include the following:

- a. The ocean elevation and profile of the proposed home shall be similar to the exhibits on file with the preliminary plans submitted with this file, dated received July 6, 2001 and shall reflect the maximum westerly projection of the residence shall extend no further seaward than 71-feet from the seaward extent of the fronting street right-of-way.
- b. The size of the proposed residence shall be no more than 3,862 sq.ft.

- c. The lot coverage shall be no more than 45%;
- d. The City required side yard and front yard setbacks shall be maintained.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. Final Drainage Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, which shall be approved by the City of Oceanside. The plans shall document that the runoff from the roof, driveway and other impervious surfaces shall be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation to the maximum extent practicable, prior to being conveyed off-site in a non-erosive manner.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. Import Site. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location from which fill material for the development will be obtained. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

II. Findings and Declarations:

The Commission finds and declares as follows:

1. Project Description/History. Proposed is the demolition of a 1,900 sq. ft. duplex and construction of a two-story, 29-foot high 3,862 sq. ft. single-family residence, garage, patio and deck on a 4,875 sq. ft. blufftop lot containing an existing riprap revetment. Approximately 150 cubic yards of imported fill is proposed. Special Condition #9 requires that the source of the fill material be identified and that, if the source is located in the coastal zone, an amendment to this permit or a separate coastal development permit must be obtained.

The project site is located between Forster Street and Oceanside Boulevard in Oceanside. The site is a low sloping blufftop that drops moderately (about a 8% grade) at the face of the bluff to the existing revetment; the bluff is supported by an existing retaining wall which would remain. 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 remainder of the "Project Description/History" section of the preceding Substantial Issue findings are incorporated herein by reference.

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

2. Visual Impacts/Compatibility/Stringline. 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. In this case, the subject lot contains an existing 1,900-sq. ft. duplex and would replace it with a new two-story 3,862-sq. ft. single-family residence. The adjacent building to the north is a two-story three-unit condominium structure. The adjacent building to the south is a two story single family dwelling. The buildings on the inland side of Pacific Street are mainly two and three story condominiums.

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.

Regarding height, the certified LCP requires that building height be no higher than 35-feet, unless approved by a Conditional Use Permit (CUP) in the RT zone.

Section 3203. Height of Buildings. Building height is limited to 35 feet unless a Conditional Use Permit is issued in accordance with Article 15 (Conditional Use Permits). Height standards in the Redevelopment Area are governed by the Development Criteria and Land Use Regulations. No building or structure shall exceed any adopted height restrictions that may appear in any other adopted Plan or Policy of the City including Proposition A passed by the voters April 13, 1982.

At the time the Commission certified Section 3203, no adopted plan or policy established a different height limit for this property. The City subsequently changed its zoning code to establish a 27-foot height limit, but never submitted an amendment to lower the height limit in the certified LCP. For the purposes of Coastal Commission review, therefore, the height limit is 35 feet. The proposed home will be 29 feet high. The City's action allowed a variance to allow a 11-foot section of the roof to encroach 2-feet above the 27-foot height limit. The Commission finds the proposed 29-foot high residence is consistent with that height limit established in the certified LCP.

The City also approved an architectural theme tower above the uncertified 27-foot height limit. The City found the thematic tower conforms to the certified LCP as the height limit is based upon the average finished grade of the project. In this case the tower's highest point is 33 feet above the average finished grade of the site, which is lower than the certified 35-foot height limit, and thus consistent with the LCP. Additionally, in "Exceptions to Height Limits", the certified LCP allows towers and the like covering not more than 10% of the ground area covered by the structure to which they are accessory to exceed the base height limit by 10 feet. The theme feature is consistent with this requirement.

The certified LCP establishes the minimum front yard (street) and side yard setbacks at 10 feet and 3 feet respectively. Again, updated zoning code revisions that took place without a LCP amendment now establish that front yard setbacks can be established by a "block face average", meaning that setbacks can be consistent with the prevailing structural setbacks on the block. In practice, this typically results in the reduction of the front yard setback requirement as most structures extend near the property boundary with South Pacific Street. In this case the project was approved with a 2-foot front yard setback which is consistent with the existing pattern of development in the area.

As noted in the Substantial Issue portion of this report, no public views are affected by the fact that the City required less of a front yard setback than as required in the LCP. More importantly, the project was approved with the required 3-foot side yard setbacks which may provide ocean views for motorists and pedestrians through the site to the ocean from Pacific Street. The certified LCP establishes the lot coverage standard at 45% in the RT zone; the proposed lot coverage is consistent at 42%.

Unlike two other single family applications (A-6-OCN-99-20, Wilt; A-6-OCN-01-133, Liguori) the Commission reviewed that are located along the South Oceanside shoreline, the subject lot is within the RT zone which allows larger multi-family structures

associated with tourist and year-round visitor-serving facilities, including permanent and transient residential and related uses. The other applications are in a single-family residential zone. Thus, the pattern of development along this section of the shoreline is for larger structures. The 3-unit structure immediately north of the project site is representative of structures in the RT zone. Thus, the proposed home will be compatible in size and character with the surrounding area.

Regarding rear yard setbacks, the certified LCP contains a requirement that new development along the ocean not extend further seaward than a "stringline". The goal of limiting new development to extend no further seaward than the stringline 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 "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 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 "Stringline Setback Map" was developed in 1983 by overlaying an imaginary stringline 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 stringline 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 71-foot stringline as depicted on the certified Stringline Map. According to the approved plans, the proposed residence extends to 71 feet from the seaward right of way of South Pacific which is the maximum permitted by the stringline map. A patio and deck was approved seaward of the stringline. However, 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 Stringline Setback line, providing that they do not substantially impair the views from adjoining properties. In this case the structures are close to grade and as such should not substantially impair the views from adjoining properties or along the beach.

The Commission has found in other actions on appealable developments in Oceanside that the maximum stringline 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 stringline can only be achieved when found consistent with all other provisions of the certified LCP. In this case, public views exist across the subject site from the Forster Street access stairway to the north and the Oceanside Blvd. vertical accessway to the south of the subject site. According to the site plan the proposed structure will extend seaward the same distance from Pacific Street as the multi-family structure on the north, about 71 feet. However, the proposed structure extends approximately 20 feet seaward of the existing duplex to be demolished and 2 feet seaward of the existing single family structure to the south. Because the project is proposed seaward of development on the lot to the south, it is not consistent with a traditional stringline where an imaginary stringline is drawn for like corners of like structures on adjacent lots. However, in this case, the certified stringline map is the standard of review and it allows the three lots in question to all have a 71-foot stringline. Therefore, the project is consistent with the stringline provisions of the certified LCP.

However, because the proposed project would extend further seaward than the current structure on the site and the structure to the south, an important concern is what, if any, adverse visual effect approval of the proposed structure would have on coastal views. 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. From beach level at greater distances from the project site, the project's visual impact would not significantly alter the appearance of the shoreline because, as proposed, it does not represent a major change in height, bulk or seaward encroachment over existing development along the shoreline. To the north of the proposed development, the majority of the residences extend as far seaward or farther than the subject residence. Because the stringline map is based partly on the curvature of the shoreline, some lots north of the subject site are allowed 100-foot stringlines based on the certified stringline map. However, as noted, the Commission has found that these are maximums and not guaranteed by right. In any event, based on the preceding, public views originating north of the site and looking south along the shoreline would not be adversely affected. Similarly, public views originating south of the site and looking north along the shoreline would not be adversely affected. These views originate from the Oceanside Blvd. street end and look north towards the Oceanside Pier. While the subject project extends further seaward than several of the lots between Oceanside Blvd. and Forster Street, the proposed project proposes a similar ocean setback as the majority of the beach fronting homes in the community. Thus, its visual impact should be similar to existing development along the shoreline.

Policy #8 of the LUP provides that all new development be compatible in height, scale, color and form with the surrounding neighborhood. 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. Special Condition #7 requires final building plans in substantial conformance with the submitted conceptual plans to ensure neighborhood

compatibility. Therefore, the project is consistent with the LCP requirement that development must be compatible in scale and form with the surrounding neighborhood.

In summary, because the Commission finds the proposed project is compatible in scale and form with existing development in the neighborhood and with LCP development and design standards, the Commission finds the project is consistent with the visual resource policies of the certified LCP.

3. Shoreline Protective Device/Beach Encroachment. 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 structures must be designed to not interfere with access along the beach. Although no work to the existing revetment was authorized by the City in its approval and none is proposed with this application, the City required the applicant to prepare a "precise Grading and Private Improvement Plan" to reflect all pavement, flatwork, landscaped areas etc. and footprints of all structures including the onsite revetment. Relative to future work to the revetment, the City required that a wave study for the project be done or that the City's standard seawall detail be used relative to maintaining the existing revetment. The seawall detail is a schematic of the typical revetment along the City's shoreline. The City takes the position that conformance with the seawall detail assures conformance with the LCP in regards to designing new revetments or maintaining existing ones. However, no LCP policy or ordinance identifies the seawall detail as the design standard of review.

A geotechnical report was prepared in 1999 which analyzed the existing revetment and determined it was functioning as intended. The report noted that the seawall was constructed generally in conformance with the seawall detail "with the exception of smaller rip rap materials locally exposed near the face of the structure." The recommendations section of the report noted that those smaller rip rap materials suggested some shifting since placement or possible variations in the original placement but that "unless an increased level of confidence as to its internal construction is desired, the existing rip rap structure appears to be adequate". It is unclear whether this last statement is in regards to the adequacy of the revetment to protect the proposed home or its consistency with the seawall detail. In any event, the City's approval did not address the adequacy of the existing revetment to protect the proposed residence in its more seaward location or that such protection was the minimum necessary to not adversely affect public access or recreation as required by the above policy and ordinance provisions.

In response to Commission staff concerns regarding the location of the revetment and its impact on the siting of the residence and the proposed deck and patio improvements seaward of the residence, the applicant prepared a wave uprush study. The wave study found that the existing riprap revetment in its present configuration and condition is expected to adequately protect the residence and proposed improvements (house, deck, patio) from storms similar to the one experienced in 1982-83. It concludes that "it is anticipated that the revetment will require monitoring and possibly some maintenance in the future. The maintenance will most likely consist of the repositioning of stones that have rolled off or the structure as a result of wave action"

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 lot has a 130-foot depth from Pacific Street and the toe of the revetment extends approx. 140-feet from the street. Thus, the survey indicates the buried toe of the revetment is approximately 10-feet seaward of the

western property line as measured on October 1, 2001. The assessor's parcel map indicates a paper street known as Paseo Del Mar lies seaward of the western property line. The revetment toe would extend approximately 10-feet into this paper street. While technically on public property, the survey indicates the revetment is still approx. 140 landward of elevation 2.1 Mean Sea Level which typically coincides with the MHTL. Thus, no adverse impacts to public access would occur as the revetment is located significantly landward of the MHTL.

Should revetment work be proposed in the future, it must be found there is adequate area landward of it to accommodate such work. As proposed, there is approx. 27-feet between the inland extent of the revetment and the residence. This area is proposed as a patio and deck; however, it could be used as additional area to accommodate expansion of the revetment if necessary.

The Commission finds that while there appears to be adequate area landward of the revetment to accommodate any future augmentation of the revetment if it is ever required, it can only find such augmentation consistent with the LCP and the Coastal Act if it is landward of the present footprint. Revetments not only "fix the back of the beach" but also create erosion to and displace sandy beach. The Commission notes that with future rising sea level and episodic storm events, the area seaward of the revetment could erode significantly, resulting in the area becoming public tidelands. The wave uprush study stated that future maintenance would likely only include repositioning several quarry stones that have migrated. Based on these findings, the Commission finds that no further seaward encroachment of the revetment is permitted (i.e., there is adequate area inland of the existing revetment to accommodate any future revetment maintenance).

The Commission is interested in establishing the seaward extent of shoreline protective devices in this area to preserve public access. The applicant's survey indicates the revetment toe is approx. 40- feet west of an existing on-site fence. However, the fence 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 Coastal Development Permit #A-6-OCN-00-71, Alanis.

Special Condition #2 clarifies that additions to the residence or the revetment require a permit amendment or a separate CDP. The concern is that future improvements to the revetment are limited to its existing seaward footprint to assure no impacts to public access by further encroachment onto the beach. Future additions to the residence could restrict the applicant's ability to make landward augmentations to the revetment if they prove to be necessary in the future. The condition will also put future property owners on notice of the need to receive a coastal development permit for future improvements.

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.

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 #6 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.

In summary, while there is an existing riprap revetment, no modifications are proposed or necessary to it to accommodate the proposed new single family residence. While the toe of the revetment extends beyond the private property line, special conditions make it clear that any future maintenance will require it to be pulled up onto private property. 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 of 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 or south of the proposed development.

The subject site is located on the seaward side of Pacific Street. 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 mean high tide line. Vertical access to the public beach is provided about 450 feet south of the project site at Oceanside Blvd. and approximately 50-ft. north at Forster Street and is thus consistent with the above LUP policy.

The Commission found above that the existing revetment would require no further improvements to protect the proposed residence. The Commission is requiring that any future augmentation or maintenance of the revetment must be done on private property. Additionally, Special Condition #5 requires that construction access and staging not affect public access. As conditioned, no adverse impacts to lateral public access should occur along the shoreline. Thus, the Commission finds the project is consistent with the public access provisions of the Coastal Act.

5. Water Quality. The certified Oceanside LCP contains a policy which addresses water quality.

As part of its environmental review process, the City shall establish measures on a project by project basis to minimize the introduction of dissolved grease, oil, paints, pesticides, construction, waste, and other pollutants into the urban runoff

The majority of the project site drains to the beach. The proposed project will add more impervious surfaces than presently exist. The applicant indicates that runoff from the site will be filtered through beach sand. No findings or conditions were made by the City regarding the project's conformance with the above policy. The Commission has been requiring that new development use best management practices to ensure that water quality will not be adversely affected by new development. Specifically, the Commission has found that the water quality of watercourses must be protected in a manner pursuant to and consistent with the Clean Water Act and California Regional Water Control Board NPDES Permit No. CA108758, Order 90-42 and any amendments. In this case, the Commission finds that to conform to the above LUP policy, runoff leaving the site must be filtered through vegetation or another best management practice before it enters the beach portion of the site. Directing on-site runoff through landscaping for filtration is a well-established best management practice for treating runoff from small developments such as the subject project. Special Condition #8 requires a final drainage plan which indicates that runoff from impervious surfaces will be collected and directed towards on-site vegetation. The Commission finds that as conditioned the project minimizes adverse impacts to coastal resources in a manner consistent with the water quality policy of the certified LCP.

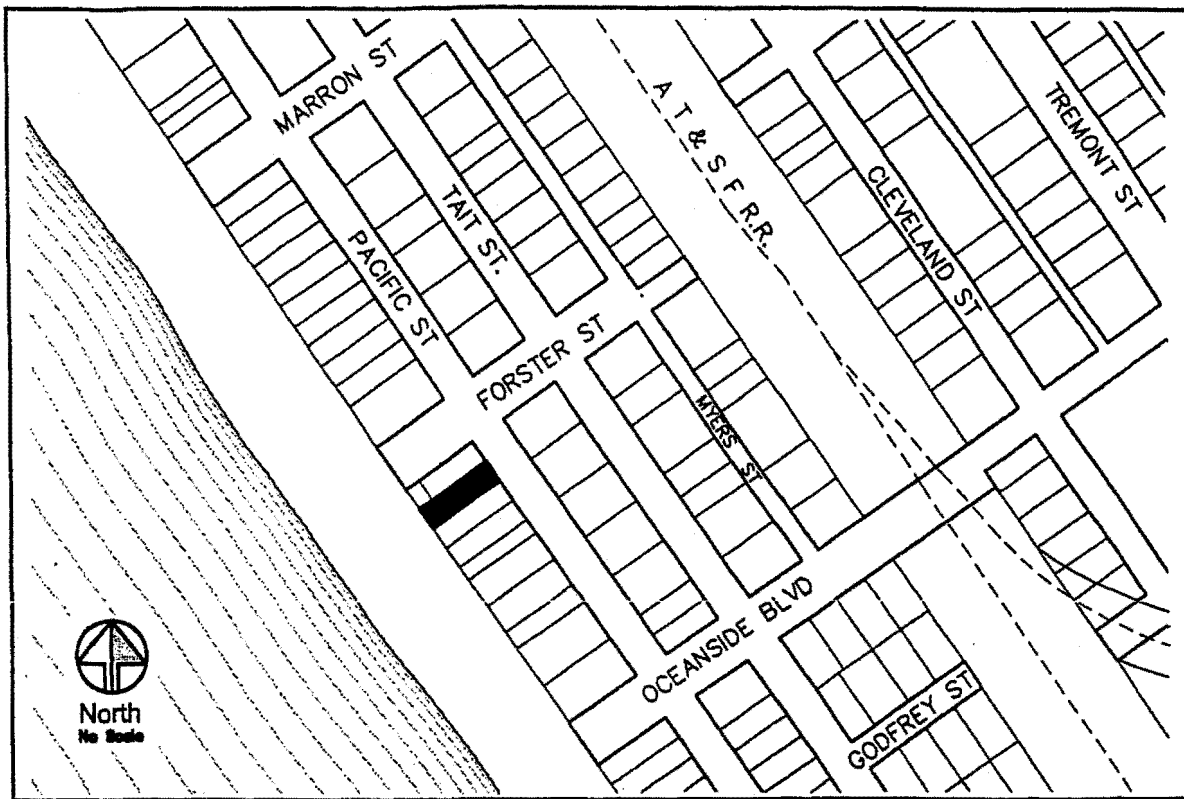
6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable 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 found consistent with the public access hazard and biological resource 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. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



SCHEMATIC PLOT PLAN

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

OCT 0 9 2001

RECEIVED

SOUTH PACIFIC STREET

FORSTER STREET

ADJACENT PROPERTY
3- CONDOS
3- STORY

STRING LINE

HOUSE
1105 So. Pacific

DECK

PATIO

STONE RIP-RAP

BEACH

PACIFIC OCEAN

VICINITY MAP

OWNERS

MAILING
ADDRESS

EXHIBIT NO. 2

APPLICATION NO.

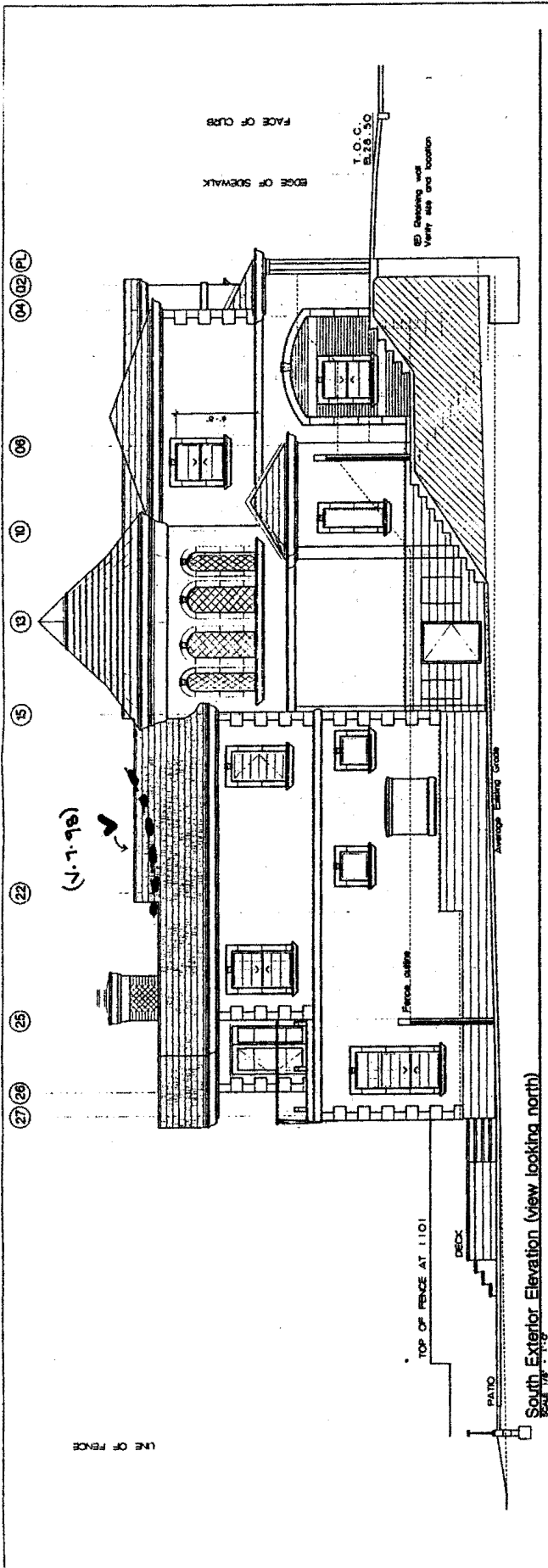
A-6-OCN-01-

088/122

Site Plan

California Coastal Commission

THE ARCOMM GROUP ARCHITECTURE • RECONSTRUCTION • CONSTRUCTION MANAGEMENT 1824 OAK AVE., CARLSBAD, CA 92008 PHONE AND FAX (619) 730-9580 ETTAN AHARON, AIA Lic. No. C11723		Ortuno & Associates ARCHITECTS 1103 S. PACIFIC AVE., OCEANSIDE, CA 92034 GABRIEL ORTUNO, AIA Lic. No. C 15181 JUDITH C. ALTMAN, AIA Lic. No. 17458		PROJECT TITLE: Stoner Family - Beach House 1103 S. PACIFIC AVE., OCEANSIDE, CA 92034		SOUTH EXTERIOR ELEVATION & DETAILS	
ARCHITECT:		ASSOCIATED ARCHITECT:		PROJECT TITLE:		SOUTH EXTERIOR ELEVATION & DETAILS	



APPROVED BY THE
 PLANNING COMMISSION
 this 20 day of May 2001
 CASE No. 26-N-98-1-1-98 T.E.
 SIGNED [Signature]

EXHIBIT NO. 3
 APPLICATION NO.
A-6-OCN-01
088/122
 Elevation

California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

DIEGO, CA 92108-4402

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: Patricia McCoy
Mailing Address: 132 Citrus Avenue
Imperial Beach, CA 91932
Phone Number: (619) 423-0495

SECTION II. Decision Being Appealed

1. Name of local/port government: Oceanside
2. Brief description of development being appealed: The proposal includes
demolition of a 1,900 sq.ft. duplex and construction of a 2-story, 33-foot high,
3,862 sq.ft. single family residence on a 4,875 sq.ft. oceanfronting lot containing
an existing riprap revetment.
3. Development's location (street address, assessor's parcel no., cross street, etc.)
1105 South Pacific Street, Oceanside, APN 152-075-02
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: A-6-OCN-01-122DATE FILED: 8/2/2001DISTRICT: San Diego

EXHIBIT NO. 4
APPLICATION NO. A-6-OCN-01-122
Commission Appeal

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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: 3/29/1999

Local government's file number (if any): RC-11-98

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

Dr. William Stoner
27830 Bradley Road
Sun City, CA 92586

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.

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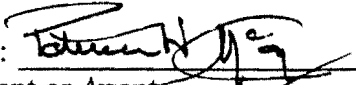
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A"

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.

Signed: 
Appellant or Agent

Date: 8/2/01

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

Signed: _____

Date: _____

CALIFORNIA COASTAL COMMISSION

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



August 1, 2001

ATTACHMENT "A"—Stoner Appeal

The proposal involves demolition of a 1,900 sq.ft. duplex and construction of a 2-story, 33-foot high, 3,862 sq.ft. single-family residence on a 4,875 sq.ft. bluff top lot containing an existing riprap revetment. The approval also includes a variance for a 2-foot roof encroachment above the zoning height limit of 27 feet. The project site is located on the west side of South Pacific Street, just north of Oceanside Boulevard in the City of Oceanside. The surrounding area is comprised of single- and multi-family dwellings on similar sized lots.

The coastal development permit was originally approved in March 1999 (RC-11-98, Variance 7-98) but the Notice of Final Action was not sent to the Commission office as required by the certified Coastal Development Permits ordinance. The Commission appealed a time extension for the coastal development permit on June 7, 2001.

In review of the City's action, it appears the development is not consistent with several of the current policies and ordinances of the certified LCP pertaining to community character, protection of public views and public access.

Two LUP Policies (#4, #8) of the "Visual Resources and Special Communities" Section of the certified Oceanside Land Use Plan (LUP) are applicable and state:

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.

The certified LCP requires new development to be compatible in size, scope and scale to surrounding structures. As noted above, the proposed development will more than double the size of the existing structure on the site and proposes an increase in height of 2 ft. above the maximum height allowed by zoning. However, 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 above LUP policy regarding community character. This issue was important on two previous Oceanside appeals the Commission has reviewed in the subject area (ref. A-6-OCN-99-20, Wilt; A-6-OCN-99-133, Liguori). Thus, the proposed development may be out of scale and character with surrounding development.

Additionally, 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 proposed residence will extend out to the maximum limits of the stringline as depicted on the certified Stringline Map (i.e., 71 feet from the front property line). The Commission has found in other actions on appealable 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 Forster Street access stairway to the north and the Oceanside Blvd. vertical accessway to the south of the subject site. According to the City, the proposed structure will be constructed consistent with the stringline of the multi-family structure on the north but seaward of the existing duplex and seaward of the existing single family structure to the south. Because the proposed project would extend further seaward than the existing structure and the structure to the south, the project may result in adverse impacts on public views from the identified public accessways. The City failed to address this issue in its approval.

The project also has the potential to result in adverse public access impacts. Section 19.B.19 of the certified Seawall Ordinance requires:

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.

Currently a riprap revetment exists along the shoreline portion of the lot. The certified LCP allows shoreline protective devices to protect existing development and requires that such devices not have adverse impacts on sand supply and coastal resources such as public access. 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. A geotechnical report was prepared in 1999 which analyzed the existing revetment and determined it was functioning as intended. No improvements to the revetment were authorized with the City actions. However, the City and the geotechnical report did not address the adequacy of the existing revetment to protect the proposed residence in its seaward location, or whether modifications to the revetment should occur to reduce beach encroachment given the existing development the riprap was built to protect was being removed. The concern relates to potential further seaward encroachment on the beach by the revetment to protect the proposed new development and the associated impacts to public access. The City failed to document the seaward extent of the existing revetment or to assure that the new development would not require additional protection seaward of the existing alignment in the future. Additionally, a concrete patio and deck is proposed seaward of the stringline. The LCP allows appurtenances such as open decks, patios and balconies to extend seaward of the Stringline Setback line, providing that they do not substantially impair the views from adjoining properties. However, both structures have substantial below grade footings and could be considered permanent structures that may be

subject to erosion in the future. Absent an updated wave uprush study, it cannot be determined if any further augmentation of the revetment is or will be necessary to protect the proposed home (or the proposed deck/patio).

In summary, the City failed to analyze the development's conformity with LCP standards regarding scale and character, public view blockage 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.

(G:\San Diego\Bill\StonerAppealSummary27.27.01.doc)