

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370

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**Tue 10a**Staff: WNP-SD  
Staff Report: 2/14/02  
Hearing Date: 3/5-8/02STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approval with Conditions

APPEAL NO.: A-6-OCN-99-133

APPLICANT: Thomas Liguori

PROJECT DESCRIPTION: Substantial demolition (greater than 50% of exterior walls) and construction of 930 sq.ft. of additional floor area to an existing 2,528-sq. ft. single-family home to total 3,422 sq.ft. on a 4,800-sq. ft. oceanfront lot. The additional area includes conversion of two existing first and second story balconies and a basement level patio to create new indoor living space. The conversions total 396 sq.ft. (276 sq.ft. for the two balconies and 120 sq.ft. for the patio) and would result in a seaward expansion of the living area of the residence approximately 6'7" for each of the three levels; the corners of the top floor would be "tailed-in" at a 45 degree angle to help reduce the bulk of the structure as viewed from the beach. Also proposed is a 498 sq.ft. second story addition over the proposed 463 sq.ft. garage. The maximum height of the finished structure will be 27 ft.

PROJECT LOCATION: 1731 South Pacific Street, Oceanside, San Diego County.  
APN 153-091-31SUMMARY 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 way of a comparison of the size and scale of nearby ocean-fronting development with the proposed project and a review of the Oceanside LCP regarding application of the certified "Stringline Setback Map." The applicant has revised the project to preserve coastal views and community character. Staff recommends the Commission approve conditions requiring final revetment plans and a survey to establish the seaward extent of shoreline protection on this lot, prohibiting any seaward expansion of the revetment, requiring a long term monitoring program to document changes to the revetment and its effect on the shoreline, and imposing other conditions consistent with the Commission's review of shorefronting development.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Oceanside Local Coastal Program (LCP), A-6-OCN-99-20/Wilt, Wave Uprush Studies Skelly Engineering, dated April 27, 1999, City of Oceanside Building Department Memorandum, dated September 5, 2000, Revetment Survey --Skelly Engineering, dated October 25, 2000; Revised Site Plan by Spear and Associates, dated December 6, 2000; Revised Site and Building Plans by Scott Bernet Architects, received February 11, 2002

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-6-OCN-99-133 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 standards set forth in the certified Local Coastal Program 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. Standard Conditions.**

See attached page.

**III. 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 F.W. Phillips, date stamped received 12/6/00 and the revetment survey dated 10/25/00 by Skelly Engineering. The plans shall identify permanent bench marks from the property line or another fixed reference point from which the elevation and seaward limit of the revetment can be referenced for measurements in the future, and shall indicate the following:

- a. the seaward toe of the existing revetment at approximately 132-feet west of the eastern property line at an elevation of 1.19 feet Mean Sea Level (MSL);
- b. the top of the revetment at elevation 16.05 feet MSL;
- c. the approximate location of the mean high tide line at elevation 2.01 feet MSL as established by topographic survey on 10/25/00 at approximately 182-feet west of the eastern property line.

2. Future Development Deed Restriction.

This permit is only for the development described in coastal development permit No. A-6-OCN-99-133. 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-99-133. Accordingly, any future improvements to the single-family residence authorized by this permit, including but not limited to repair and maintenance 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-99-133 from the 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. 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 or 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:

- 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-99-133 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 monitoring plan shall require an annual report summarizing the information required above to be prepared by a licensed civil or geotechnical engineer familiar with shoreline processes and be submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Oceanside Engineering Department 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. 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-99-133 above, any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe shall be removed from the beach. However, if it is determined that repair and/or maintenance to the revetment is necessary, the permittee shall contact the Commission office to determine whether an amendment to this permit is legally required.

5. Construction Schedule/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 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. 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 legally required.

#### 6. Assumption of Risk.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave uprush and 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. As-Built Home Plans. Within 60 days of completion of construction of the residential structure, the applicant shall submit to the Executive Director for review and written approval, "as-built" building plans and elevations approved by the City of Oceanside for the permitted development, which shall be in substantial conformance with the building plans and elevations submitted by the applicant, date stamped received February 11, 2002.

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

8. 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 revised building plans for the proposed project that have been approved by the City of Oceanside Building Department. Said final building plans shall be revised as necessary to include the following:

- a. The ocean elevation and profile of the proposed home shall be in substantial conformance with the preliminary plans dated February 11, 2002 submitted with this file. The maximum westerly projection of any balcony or basement shall extend no further seaward than 80 feet from the seaward extent of the S. Pacific Street right-of-way.
- b. The size of the proposed residence shall be no more than 3,422 sq.ft.
- c. The lot coverage shall be no more than 40%;
- d. The two-foot yard front and three-foot side 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 legally required.

9. No Future Seaward Extension of Shoreline Protective Device

A. By acceptance of this Permit, the applicant agrees, on behalf of himself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to Coastal Development Permit No. A-6-OCN-99-133, as shown on Exhibit 2, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of

himself and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

B. Prior to the issuance of Coastal Development Permit No. A-6-OCN-99-133, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel and the shoreline protective device approved by this permit and an exhibit showing the footprint of the device and the elevation of the device referenced to NGVD (National Geodetic Vertical Datum). 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.

#### IV. Findings and Declarations:

1. Project Description/History. Substantial demolition (greater than 50% of exterior walls) and construction of 930 sq.ft. of additional floor area to an existing 2,528-sq. ft. single-family home to total 3,422 sq.ft. on a 4,800-sq. ft. oceanfront lot. The additional area includes conversion of two existing first and second story balconies and a basement level patio to create new indoor living space. The conversions total 396 sq.ft. (276 sq.ft. for the two balconies and 120 sq.ft. for the patio) and would result in a seaward expansion of the living area of the residence approximately 6'7" for each of the three levels; the corners of the top floor would be "tailed-in" at a 45 degree angle to help reduce the bulk of the structure as viewed from the beach. Also proposed is a 498 sq.ft. second story addition over the proposed 463 sq.ft. garage. The maximum height of the finished structure will be 27 ft. Pages 2 and 3 of the attached Revised Findings staff report detail the procedural history of the project (Ref. Exhibit #17).

The project site is located on the west side of Pacific Street, between Buccaneer Beach and Cassidy Street in the City of Oceanside. An existing rock revetment is located on the beach seaward of the existing residence. The western boundary of the property is the mean high tide line.

The site is a sloping coastal bluff and has a 20-foot elevation differential from Pacific Street to the existing revetment located near the western property boundary. The lot is 30 feet wide and extends westerly to the mean high tide line. A 14-foot wide at-grade concrete patio and 13-foot wide perched beach are located between the proposed new residence and the existing revetment and are proposed to remain. There is approximately 28-feet between the existing buried toe of the revetment and the elevation of the mean high tide line as measured on October 25, 2000 (per the survey by Skelly Engineering). Surrounding development consists of one-and two-story single-family and multi-family residential uses on small lots.

This project first came before the Commission on appeal from a decision by the City of Oceanside approving the project with special conditions. The Commission voted to deny

the proposed development on January 9, 2001 (Ref. Exhibit #17). The applicant subsequently challenged the Commission's denial of the project in *Liguori v. California Coastal Commission*, Case No. GIN009431, filed in San Diego County Superior Court. The applicant and the Commission have reached a stipulated settlement agreement. The applicant agreed to submit a modified project description and the Commission agreed to review the project as modified. The settlement agreement does not in any way limit the Commission's exercise of its lawful discretion when considering the modified project. The Commission retains full discretion to approve, approve with conditions, or deny the modified project.

Because the proposed development is located between the first public road and the sea, the standard of review is the certified Oceanside Local Coastal Program and the public access and recreation policies of the Coastal Act.

3. 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 "Visual Resources and Special Communities" 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 following sections of the certified LCP (zoning ordinance) pertain to the site of the proposed development:

Section 1701(a)

Every Lot in the R-A, R-1, R-2 and SP zones shall maintain a front yard setback of twenty (20) feet.

Section 1702(a)

Interior lots in the R-A, R-1, R-2 and SP zones shall have a minimum side yard setback of not less than ten (10) percent of the width of the lot provided that such side yard setback shall not be less than three (3) feet and need not exceed (5) feet.

Section 1707(a)

All buildings in the R-A and R-1 zones including accessory buildings and structures shall not cover more than forty (40) percent of the area of the lot

Section 1709(a)

No building or structure located in the R-A, R-1, R-2, PRD or SP zones shall exceed a height of 35 feet or two stories, whichever is less.

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 2,528 sq.ft. single family dwelling which is designed as a two-story plus basement unit. The proposed development would increase the size of the dwelling to 3,422 sq.ft.

The LUP requires that all new development shall be compatible in height, scale, color and form with the surrounding neighborhood. The average size of residences in the project area is 2,464 sq. ft. (from 1609 S. Pacific to 1747 S. Pacific, including both the Residential Tourist [RT] and Residential Single Family [RS] zone—Exhibit #10). The subject residence would be the largest structure in the RS zoned properties (although the Commission approved a 3,451 sq.ft residence at 1719 S. Pacific [A-6-OCN-99-20, Wilt] six lots to the north of the subject site in October, 1999) and among the largest in the portion of the RT Zone that is between 1609-1747 S. Pacific. As shown on Exhibit 10, the sizes of the houses on the three contiguous lots to the south of the project site are 2,405 sq.ft., 2,729 sq.ft. and 2,813 sq.ft. However, the LCP does not identify that new residential development must be within a certain size (i.e., square footage or floor area ratio). Rather, it contains design guidelines and development standards that define the allowable building envelope of a project.

The LCP establishes a lot coverage standard of 40%. The City found the project is consistent with this standard as it proposes a 40% lot coverage. Special Condition #8 requires final building plans for the proposed project that have been approved by the City of Oceanside Building Department which identify that the project meets the local development standards and design guidelines.

Regarding height, houses in the project area have varying heights. Several, including the adjacent residence to the south, appear to be up to 35 feet high. In 1988, the City amended its zoning code to reduce the height limit in this zone from 35 feet to 27 feet.

The City, however, never sought an LCP amendment to lower the 35-foot height limit established in the certified LCP. As noted, the applicant has revised the project such that no portion of the proposed new residence exceeds 27-feet in height. Because the proposed building height is compatible with other nearby houses that are taller and because the proposed building height is within the height limit established by the certified LCP, the proposed development is consistent with the provisions of the LCP regarding building height. To assure the home meets this requirement after construction, Special Condition #7 requires the applicant to submit "as-built" home plans, including elevations, within 60 days of completion of construction of the residential structure, which are in substantial conformance with the building plans and elevations submitted by the applicant.

Special Condition #8 also requires development to comply with setback requirements. The approved project appears to meet existing LCP development standards and design guidelines related to height (35 feet required; 27 feet proposed), lot coverage (40% required; 40% proposed) maximum stringline (80 feet required; 80 feet proposed) and side-yard setback (3 feet required; 3 feet proposed). The project has only a 2-foot front-yard setback instead of the 20-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. 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.

Section 1901 of the certified zoning ordinance (Variances) allows variances if 4 findings are made.

- (A) That there are special circumstances applicable to the property because of size, shape, location, topography, easements, or surrounding that, with the strict application of the terms of the ordinance, deprives such property of rights enjoyed by other property in the vicinity and in the same zone classification
- (B) That the granting of the variance will not constitute a special privilege to the property;
- (C) That the granting of the variance will not adversely affect any Specific Plan, Precise Plan, or General Plan adopted or being adopted for the area
- (D) That the granting of the variance will not be materially detrimental or injurious to the surrounding property nor to the general development pattern of the neighborhood.

The Commission finds that the front yard setback variance meets the 4-part test. The prevailing pattern of development on the block face is a 1-foot front yard setback. Thus strict application of the certified 20-foot front yard setback would deprive the applicant of development rights given to other properties in the vicinity. Requiring a 20-foot front yard setback, in combination with the side yard setbacks and the oceanfront stringline

would limit the applicant to developing substantially less than the 40 percent lot coverage allowed by the LCP. Consequently, the granting of the variance would not represent a grant of special privileges inconsistent with the development limitations that have been applied to other similar coastal projects in the vicinity and sharing similar property conditions. The 2-foot front yard setback is consistent with local zoning, does not adversely affect coastal views or access, and would not adversely affect future local planning. Granting the 2-foot front yard setback would not be detrimental or injurious to surrounding property or to the general development pattern of the neighborhood. Thus, the Commission finds that the 2-foot front yard setback complies with the requirements for a variance under the certified Oceanside LCP.

Regarding scale and form, some neighborhood residents have indicated that the structure is three stories while the certified LCP only allows two stories to assure neighborhood compatibility. As noted above, part of the modifications approved by the City include enclosure of a pre-existing patio area and its consolidation into the adjoining basement area. The City's original approval includes a requirement that the basement floor must qualify as a "basement" under the provisions of the Uniform Building Code (UBC) through the building department final plan check. Additionally, the City has done an independent review of this issue. The City's September 5, 2000 letter (attached) finds the bottom level is a basement and not another building story. The letter concludes that "the subject residence is two stories over a basement as defined in the Uniform Building Code."

The Commission staff has independently reviewed the floor plans and elevations and with a City representative took measurements at the site and has determined that the bottom level is consistent with both the LCP and UBC definitions of a "basement". The LCP and UBC definitions of basement basically require that more of the floor space of the bottom level be below grade than above grade which is the case for the subject residence. Thus, the lower level meets the intent of the LCP definition of "basement". The definitions in the LCP are consistent with the definitions in the UBC and construction in conformance with the UBC does not result in conflict with LCP policies. Therefore, the Commission concurs with the City's determination that the structure is two stories over a basement. As such the project is consistent with the LCP requirement that development must be compatible in scale and form with the surrounding neighborhood.

Regarding the stringline issue, 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) 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 "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 conversion of the existing additions to living space on the beach side of the property would not extend beyond the limits of the stringline as depicted on the certified Stringline Map. According to the approved plans and a recent survey, the reconstructed residence extends to 79 feet 1 inch from the seaward right of way of South Pacific Street (building length of 77 feet 9 inches plus the front yard setback of 1 foot 4 inches). Based upon the stringline map, the stringline on the project site is measured at approximately 80-feet from the South Pacific Street property line. The stringline represents the maximum limits of structural expansion toward the beach. 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. An existing at grade concrete patio is proposed seaward of the stringline but would have no adverse visual impact.

In interpreting the LCP, the Commission has found in other actions that building out to the stringline is not a development "right" to which an applicant is automatically entitled (A-6-OCN-99-20, Wilt; A-6-OCN-00-71, Alanis; A-6-OCN-01-122, Stoner). The Commission found that allowing the Wilt project to extend to the 85-foot stringline as identified on the stringline map and approved by the City would cause the project to be out of scale and character with the pattern of development in the area resulting in adverse visual impacts and raised access concerns (i.e., increased the potential for additional shoreline protection which could result in adverse public access impacts). (While the two sites are only six lots apart [the subject site is south of the Wilt lot], the stringlines are different based upon the curvature of the shoreline). The Commission required the Wilt project to conform to an 80-foot stringline for decks and balconies as measured from the seaward extent of the S. Pacific right-of-way and a 73-foot stringline for the main house. The Commission further found that future projects subject to the certified Stringline Map would only be allowed the maximum stringline upon the finding the project is found consistent with all other governing policies of the certified LCP. In A-6-OCN-01-122 (Stoner), the Commission approved the proposed 71-foot main house stringline finding the project warranted the full stringline based on its compatibility with neighboring development and that as sited would have no adverse visual impacts on upcoast and downcoast public views.

In this case, an important concern is what, if any, adverse visual effect would approval of the proposed structure have on coastal public 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 its existing configuration.

One important public view exists at the Cassidy Street access stairway to the south of the project site. Here, upcoast views to the beach, Oceanside Pier and ocean are significant. From the bluff top elevation of the stairway, outstanding upcoast views of the pier and beach are presently available for those who do not wish to walk down the stairway to the beach. However, after visiting the site, measuring the stringline and inspecting upcoast views from the Cassidy Street stairway, Commission staff determined that the proposed project would have no adverse impact on upcoast public views. Although the proposed project would extend further seaward than existing development in the immediate area (approximately 1-foot further seaward than the home directly to the south), the scope of the project is too limited and the project site is too far removed from the stairway to have an adverse visual impact on upcoast views.

Similarly, the Commission finds the proposed project would have no adverse impact on public views from the Whaley Street vertical accessway to the north of the subject site. Because the pattern of development extends more seaward near Whaley Street than in the subject area, no downcoast public views would be affected by development on the subject site (the certified Stringline Map indicates that the stringline extends to as far as 100 feet from the S. Pacific right of way near Whaley Street). Additionally, public views are not as available at this location because one is in a "chute" between structures to a point beyond the stringline, unlike the Cassidy Street accessway.

Regarding the adverse precedent of allowing subsequent development proposals to extend to the maximum stringline, the Commission notes that any future shoreline developments will also be subject to project-specific analysis of impacts on coastal views. The Commission notes that future proposed improvements to existing homes closer to the Cassidy Street accessway might not be allowed to extend to the stringline. For example, should the residence immediately adjacent to the stairway to the north build out to the maximum stringline of 80 feet, upcoast views would be significantly impacted. The view of the pier and the majority of the upcoast view would be completely blocked. Rather, the important consideration is that it must be found in each case that buildout to the stringline is consistent with all the appropriate policies of the LCP. If such a finding cannot be made, the Commission may impose a condition that limits the seaward encroachment of the project to less than what the stringline map indicates, as it did in A-6-OCN-99-20.

Finally, as noted, the project was revised by the applicant to reduce its height to 27-feet high and redesigned so the corners of the top floor would be "tailed-in" at a 45-degree

angle to help reduce the bulk of the structure as viewed from the beach. These changes lessen the visual impact of the structure.

In summary, the Commission finds the proposed project, while larger in size than other single-family residences in the area, is still compatible in size and scale and is consistent with the quantitative standards established in the certified LCP. Also, the addition will not result in adverse impacts on public views up and down coast. Thus, the Commission finds the project can be found consistent with the visual resource policies of the certified LCP.

4. 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.

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) as follows:

Shoreline structures as defined in Article II of the certified Seawall Ordinance 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.

In response to Commission staff concerns as to whether the proposed development would be safe from wave runoff and whether the revetment encroached onto the public beach, the applicant prepared a wave uprush study. The wave study states that the existing riprap revetment "is in fair to good condition and is adequate to protect the site from storms similar to the 1982-83 El Nino winter. However, the revetment needs some minor maintenance in the form of addition of about 4 new armor stone to replace stones that have scoured down. This maintenance can be performed during the next maintenance cycle." The report concludes that the "revetment does not need to encroach any further seaward to provide adequate protection for the home and improvements."

The concern is whether there is adequate area on private property to accommodate a stable revetment over the long-term should the seaward expansion to the residence be approved. According to the coastal engineer's findings, it appears there is adequate private lot area both seaward and landward of the revetment to accommodate a stable revetment for the proposed improvements without encroaching onto public tidelands. Seaward of the revetment there is approximately 28 feet between the buried toe of the revetment and the mean high tide line as determined on 10/25/00. Landward of the revetment there is an existing 13-foot wide perched beach which is proposed to remain as such. Thus, should maintenance of the revetment be required in the future, there is adequate area to place additional rocks inland of the revetment if warranted. The Commission finds that while there appears to be adequate area both landward and seaward of the revetment to accommodate any future augmentation of the revetment, it

can only support such augmentation if it is landward of the present footprint. 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. 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).

A 10/25/00 survey done by Skelly Engineering indicates the revetment toe is 132-feet west of the easterly property boundary. Based on the preceding, the Commission finds that no additional rock is authorized seaward of this location. 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. Through Special Condition #9, the applicant agrees on behalf of himself and all successors in interest not to extend the revetment seaward.

Special Condition #2 identifies that based on the wave study indicating the existing revetment would protect the proposed project, no maintenance or augmentation to the existing revetment is approved with this permit. Any maintenance or augmentation would require a permit amendment. Special Condition #2 also requires that any future improvements to the single family house or riprap revetment authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252, shall require an amendment to this coastal development permit from the Commission. The concern is that future improvements to the revetment are limited to the existing footprint and to assure no impacts to public access by further encroachment onto the beach.

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 or 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 concern is that any future development on the site has the potential to extend shoreline protection seaward onto public 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 any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe shall be removed from the beach through an amendment to the Commission's permit.

Although the wave uprush study finds the existing revetment would protect the proposed reconstruction, Special Condition #6 requires the applicant to execute an assumption of risk document, providing that the applicant understands 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, the proposed development is safe from wave runup and flooding with the existing revetment, assuming it is properly maintained. As conditioned so that no further seaward encroachment of the revetment is permitted with this action or in the future, that final plans are submitted that indicate the position of the existing revetment relative to a fixed reference point, that maintenance and monitoring of shoreline conditions relative to the revetment are performed to minimize public access impacts and that the applicant assumes the risk of developing in a hazardous area, the Commission finds the proposed project conforms to the certified Oceanside LCP.

5. Public Access and Recreation. Section 30604(c) requires that a specific access finding be made for all development located between the sea and the first coastal roadway. The certified LCP contains provisions that call for the protection and enhancement of public access.

Major Finding #7 of the LUP provides:

7. The shoreline between Wisconsin and Witherby Streets is accessed by five 80 foot wide public "pocket" beaches, spaced at 450-foot intervals.

The subject site is located on the seaward side of Pacific Street. Vertical access to the public beach is provided about 400 feet south of the project site at Cassidy Street and approximately 300-ft. north at Whaley Street, one of the above-identified pocket beaches. Thus, adequate vertical access to the shoreline is located nearby.

Access policy #2 of the LUP provides:

2. New public beach access shall be dedicated laterally along the sandy beach from Witherby Street south to the City limits in conjunction with restoration of the beach or new private development, whichever comes first.

As conditioned herein, no further seaward encroachment beyond the existing toe of the revetment is proposed or permitted. To ensure that project construction would not affect public access, Special Condition #5 requires detailed plans identifying the location of access corridors to the construction sites and staging areas, and a final construction schedule. This condition also states that any proposed changes to the approved plans or the stated criteria shall be reported to the Executive Director. No changes to the plans or schedule shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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 and visual policies of the Coastal Act and the Oceanside LCP. Mitigation measures will minimize all adverse environmental impacts on coastal views, community character, and shoreline processes. 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.

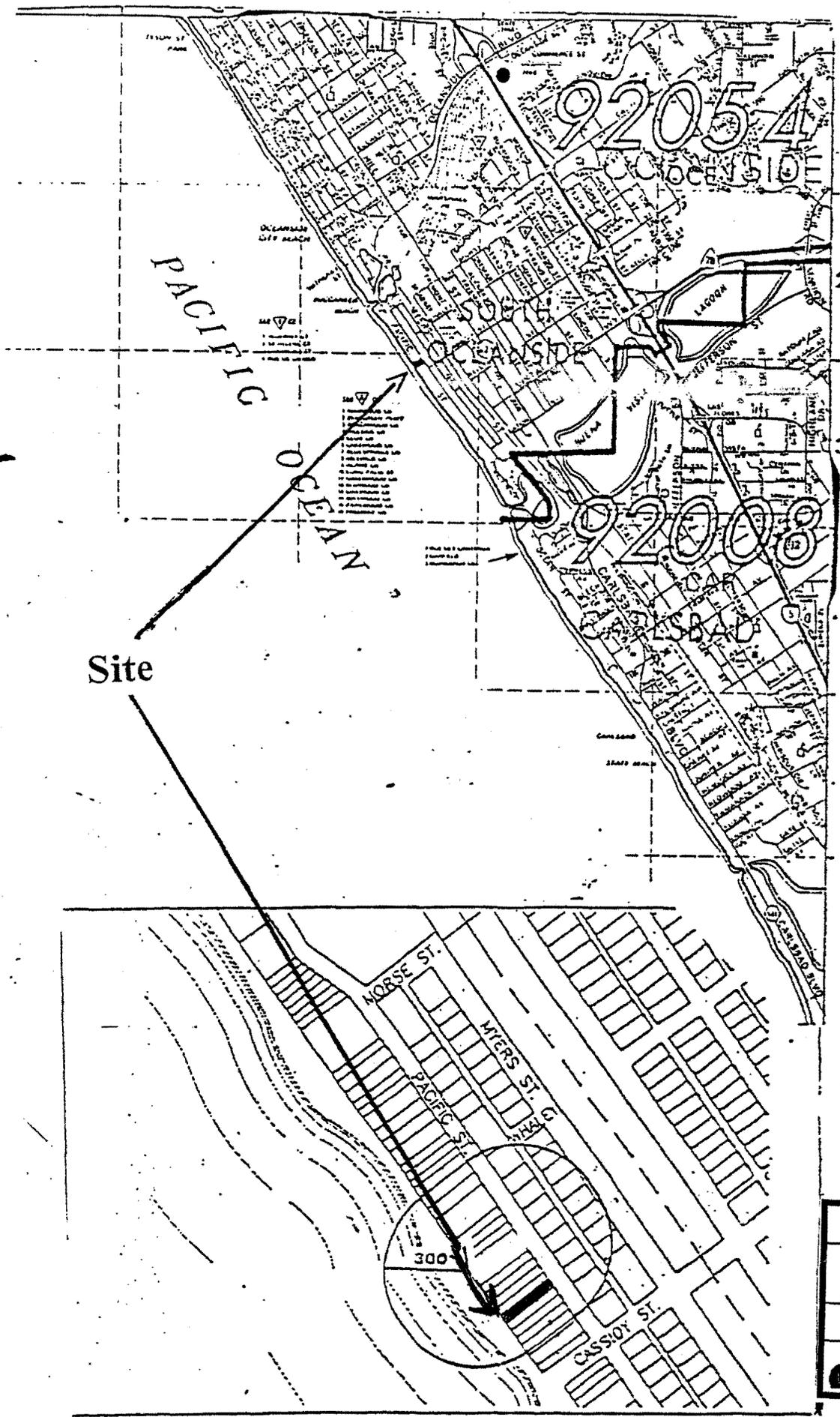
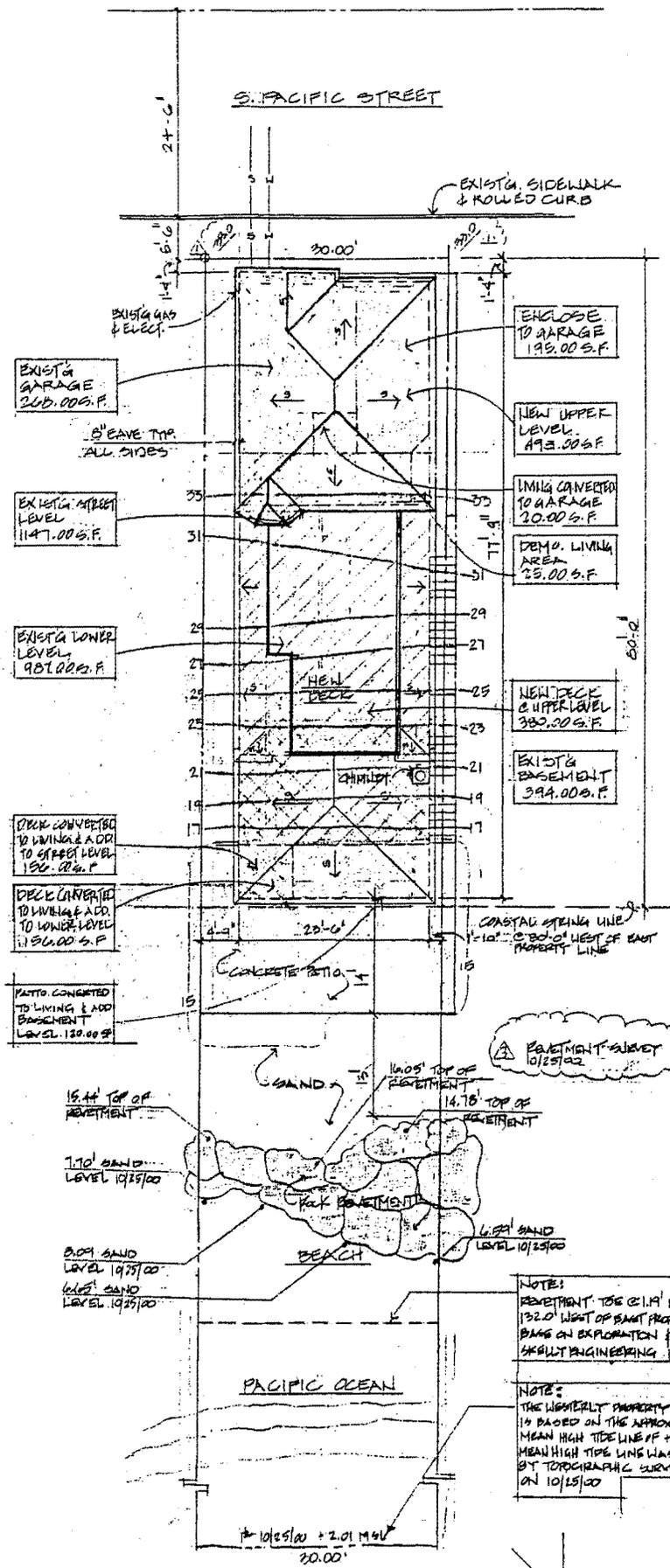


EXHIBIT NO. 1  
 APPLICATION NO.  
**A-6-OCN-99-133**  
 Location Map  
 California Coastal Commission



**LEGEND**

- STREET LEVEL PLAN (EXIST'G)
- UPPER LEVEL
- LOWER LEVEL
- BASEMENT

**EXHIBIT NO. 2**  
**APPLICATION NO.**  
**A-6-OCN-99-133**  
 Site Plan

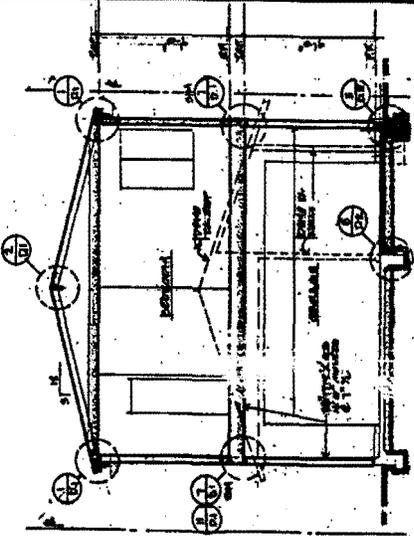
**SITE PLAN**  
 SCALE 1" = 10'-0"

NO.	REVISIONS

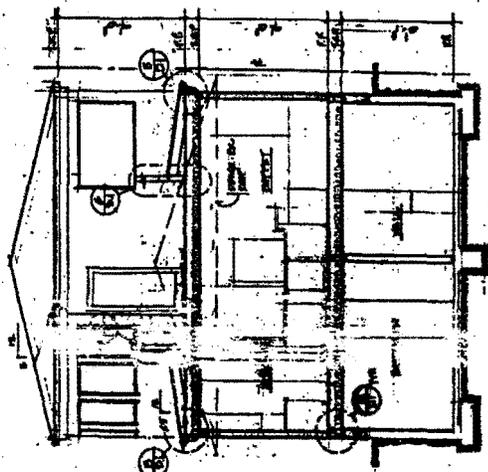
**F.W. PHILLIPS**  
 ARCHITECTS  
 3411  
 3411  
 San Diego  
 CA 92116  
 (619) 224-2722  
 FAX (619) 266-2284

**1731 So. PACIFIC STREET**

**B-3**  
 SHEET  
 OF 13 SHEETS



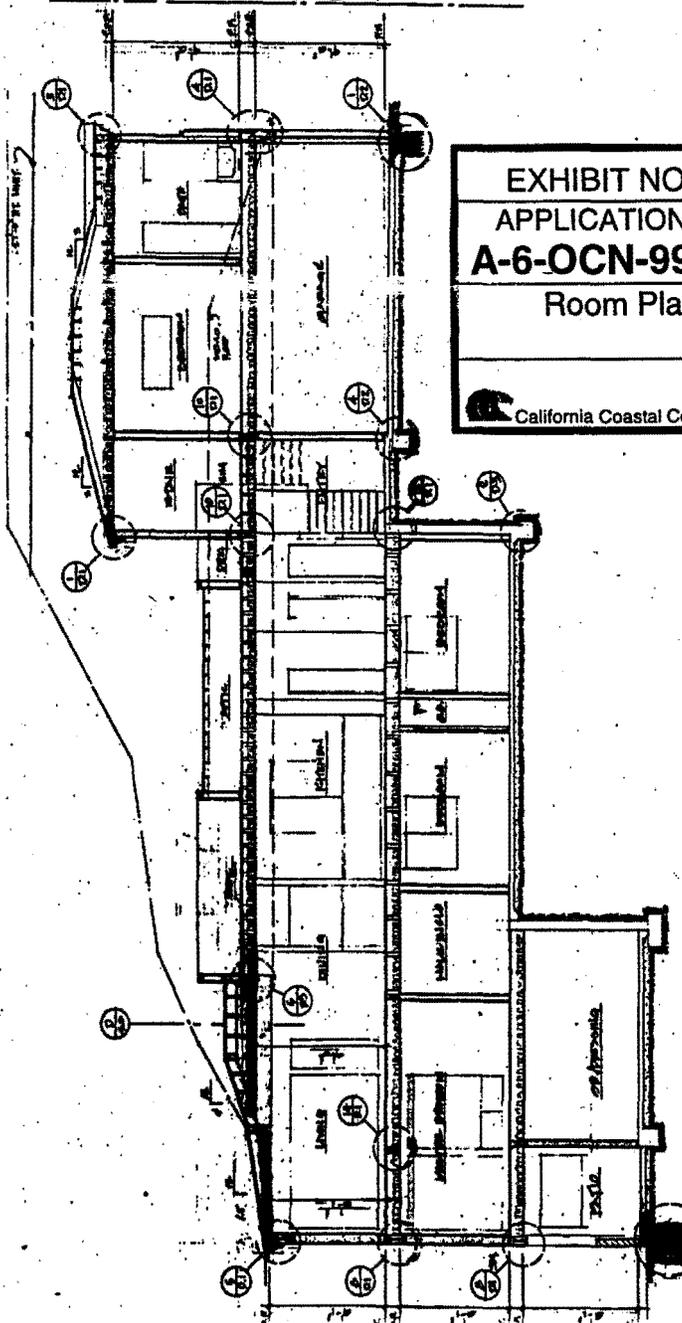
SECTION  
 SCALE 1/4" = 1'-0"



SECTION  
 SCALE 1/4" = 1'-0"



SECTION  
 SCALE 1/4" = 1'-0"



**EXHIBIT NO. 3**  
**APPLICATION NO.**  
**A-6-OCN-99-133**  
**Room Plan**

California Coastal Commission

SECTION  
 SCALE 1/4" = 1'-0"

RECEIVED

PETE WILSON, Governor

OCT 13 1999

CALIFORNIA COASTAL COMMISSION

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

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Allen Evans  
1729 S. Pacific Street  
Oceanside, CA 92054 (858) 581-4568 (w)  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port  
government: City of Oceanside

2. Brief description of development being  
appealed: Ligouri Property

3. Development's location (street address, assessor's parcel  
no., cross street, etc.): 1731 S. Pacific Street, Oceanside CA  
Cross Street - Cassidy

- 4. Description of decision being appealed:
  - a. Approval; no special conditions: X
  - 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: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

EXHIBIT NO. 4
APPLICATION NO. A-6-OCN-99-133
Evans Appeal
Pages 1-5
California Coastal Commission

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

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

a.  Planning Director/Zoning Administrator      c.  Planning Commission

b.  City Council/Board of Supervisors      d.  Other \_\_\_\_\_

6. Date of local government's decision: February 8, 1999

7. Local government's file number (if any): RC-8-97

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Thomas A. Lippouri  
15555 Stage Coach Road  
Poway, CA 92064

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

- (1) See attached list
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

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

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

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

*See attached*

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

SECTION V. Certification

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

Signed *[Signature]*  
Appellant or Agent

Date 10-12-99

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

Signed \_\_\_\_\_  
Appellant

Date \_\_\_\_\_

## Basis for Appeal

The proposed development of the Ligouri Property (RC-8-97) is being appealed on several issues:

- Violation of the Local Coastal Program
- Violation of the Coastal Act

### LOCAL COASTAL PROGRAM

The property (1721 S. Pacific Street, Oceanside) is located within the first public road in this community and the sea; therefore, under Section 30603 (b) of the Coastal Act, non-conformity with the certified local coastal program is ground for appeal.

Policy #8 of the "Visual Resources and Special Communities" section of the certified Oceanside Land Use Plan (LUP) states:

8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

This development clearly violates this policy in several ways:

#### Height

The height of the most westerly wall extends above the 27-foot height limit required by the LCP. The result is a 3-story wall projecting farther shoreward than any other surrounding home.

#### Scale

The proposed home will be 105% larger than the average houses in the same zoning area ("RS"—residential single). In fact, it will be the largest home in the neighborhood. According to the Coastal Commission Staff, the average home size in the 1700 block of S. Pacific Street is 2,054 square feet. By comparison, the proposed structure represents 4,219 square feet—2,165 square feet more than the current average! This is substantial.

### COASTAL ACT

The Coastal Act Policy Chapter 3, Article 6 states:

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural forms, to be visually compatible with the character of surrounding areas.

This development violates this section of the Coastal Act in several ways:

#### Stringline

The stringline is decided by the developer and then reviewed by the City of Oceanside. It is loosely interpreted according to a line drawn on an aerial photo. This non-technical way of determining the stringline causes it (stringline) to be inconsistently applied.

According to the California Coastal Commission Staff, "building out to the stringline is not a development 'right' that the applicant is entitled to." With this in mind, enclosing the balconies to the stringline "is not a development 'right' that the applicant is entitled to." This encroachment will result in a 3-story blockade that will dominate the down-beach public viewshed.

#### **Precedent Setting**

Should the Commission allow this development, it is highly likely that the surrounding residents will apply for permits to extend their structures to the same extent. The result will be a substantial encroachment on an already minimal viewshed, an impediment to lateral access as additional rip-rap is needed for protection, and an increase in the likelihood of permits for permanent shoreline stabilization structures.

Additionally, there are several other pertinent issues relating to this property

#### **Premature Construction**

Construction on the above site has occurred vigorously prior to the appeal process retained by the California Coastal Commission.

#### **Undisclosed Building Plans**

The current structure being built is being done according to plans that are not on file with the Oceanside Planning Department or the California Coastal Commission (the plans on file were received by the Oceanside Planning Department on January 26, 1999). This is clearly evidenced by:

- Encroachment of the structure towards the sea
- Undisclosed square feet on the beach level
- Additional height at the street level
- Additional structures above the street level

## CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT  
 DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Sara Wan  
 Mailing Address: 22350 Carbon Mesa Road  
Malibu, CA  
 Phone Number: (310) 456-6605

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: Construction of a 973 sq.ft addition to an existing 2,528 sq.ft. single family dwelling
3. Development's location (street address, assessor's parcel no., cross street, etc):  
1729 S. Pacific St. Oceanside, CA 92054
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-99-133

DATE FILED: 10/13/99

DISTRICT: San Diego

EXHIBIT NO.
APPLICATION NO. <b>A-6-OCN-99-133</b>
Commission Appeal
Pages 1-8
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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

a.  Planning Director/Zoning  
Administrator

c.  Planning Commission

b.  City Council/Board of  
Supervisors

d.  Other

Date of local government's decision: 2/8/99

Local government's file number (if any): RC-8-97

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:

Thomas A Ligouri  
1555 Stage Coach Road  
Poway, CA 92064-6615

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.)

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See Attachment "A"

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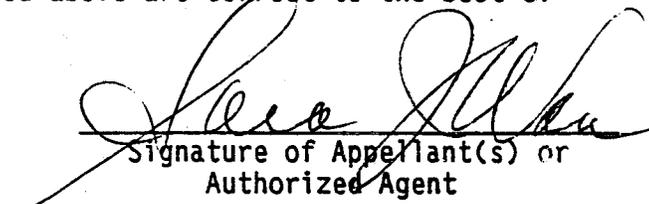
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Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal,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

  
Signature of Appellant(s) or  
Authorized Agent  
Date 10/13/99

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

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)  
Date \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

CAMINO DEL RIO NORTH, SUITE 200

DIEGO, CA 92108-1725

(619) 521-8036

**ATTACHMENT "A"--Liguori Appeal**

The proposal includes a 973 sq.ft. addition to an existing 2,528 sq.ft. single family residence on a 4800 sq.ft. oceanfronting lot in Oceanside. Approximately 661 sq.ft. of the proposed 3,501 sq.ft. residence is a second story addition over the existing 268 sq.ft. garage. The remaining 312 sq.ft. already exists in the form of existing outdoor deck area which is proposed to be enclosed as new living space and represents the most seaward expansion. A 195 sq.ft. garage expansion is also proposed to enclose the existing covered entryway and consolidation of that area into a 2-car garage.

The second story addition over the garage is designed at 23 feet in height which is below the 27-foot height limit certified in the Oceanside LCP. The conversion of the existing additions to living space on the beach side of the property will not extend beyond the limits of the stringline as depicted on the certified Stringline Map. According to the plans, the existing residence extends to 74 feet from the seaward right of way of South Pacific Street and the proposed addition would extend the house to 80 feet from the right of way. The stringline represents the limits of structural expansion toward the beach. Based upon the stringline map, the stringline is measured at approximately 80-feet from the South Pacific Street property line. An existing patio and spa would remain that is 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.

It appears the project approved by the City extends to the limit of the stringline and represents the largest house within the project area (Residentially zoned properties within the 1700 block). Policy 8 of the certified LUP requires that new development be compatible in scale and character with the surrounding area. As approved by the City, it appears that the project would not be compatible with the size and scale of existing development as the development will extend to the maximum limit of the stringline, resulting in the furthest seaward extension of any development on the block.

## CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Pedro Nava  
Mailing Address: 925 De La Vina Street  
Santa Barbera, CA 93101  
Phone Number: 805 965-0043

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: Construction of a 973 sq.ft addition to an existing 2,528 sq.ft. single family dwelling
3. Development's location (street address, assessor's parcel no., cross street, etc:)  
1729 S. Pacific St.Oceanside, CA 92054
4. Description of decision being appealed:
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  - c. Denial:

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TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-99-133

DATE FILED: 10/13/99

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
- b.  City Council/Board of Supervisors
- c.  Planning Commission
- d.  Other

Date of local government's decision: 2/8/99

Local government's file number (if any): RC-8-97

SECTION III. Identification of Other Interested Persons

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Name and mailing address of permit applicant:

Thomas A Ligouri  
1555 Stage Coach Road  
Poway, CA 92064-6615

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.

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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.)

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SECTION V. Certification

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

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date

10/13/89

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

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date

**CALIFORNIA COASTAL COMMISSION**

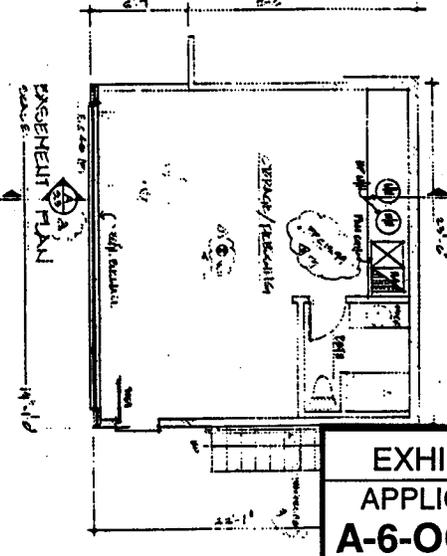
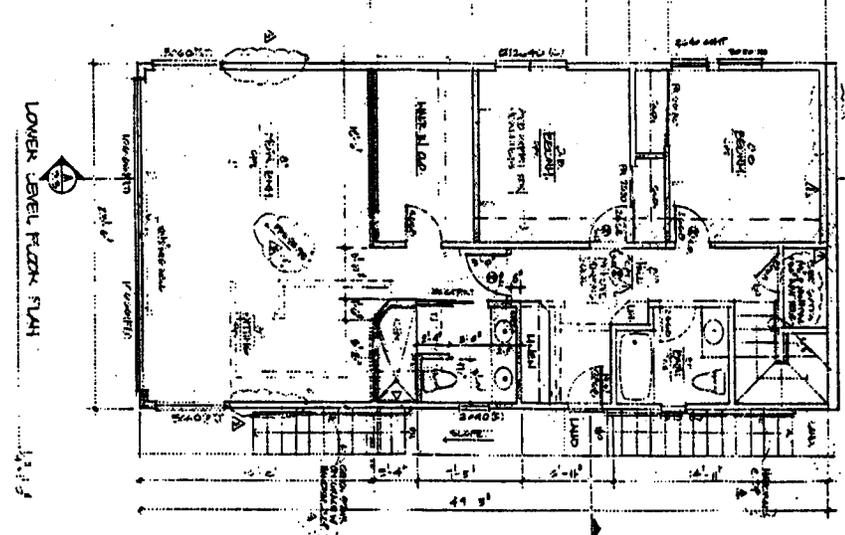
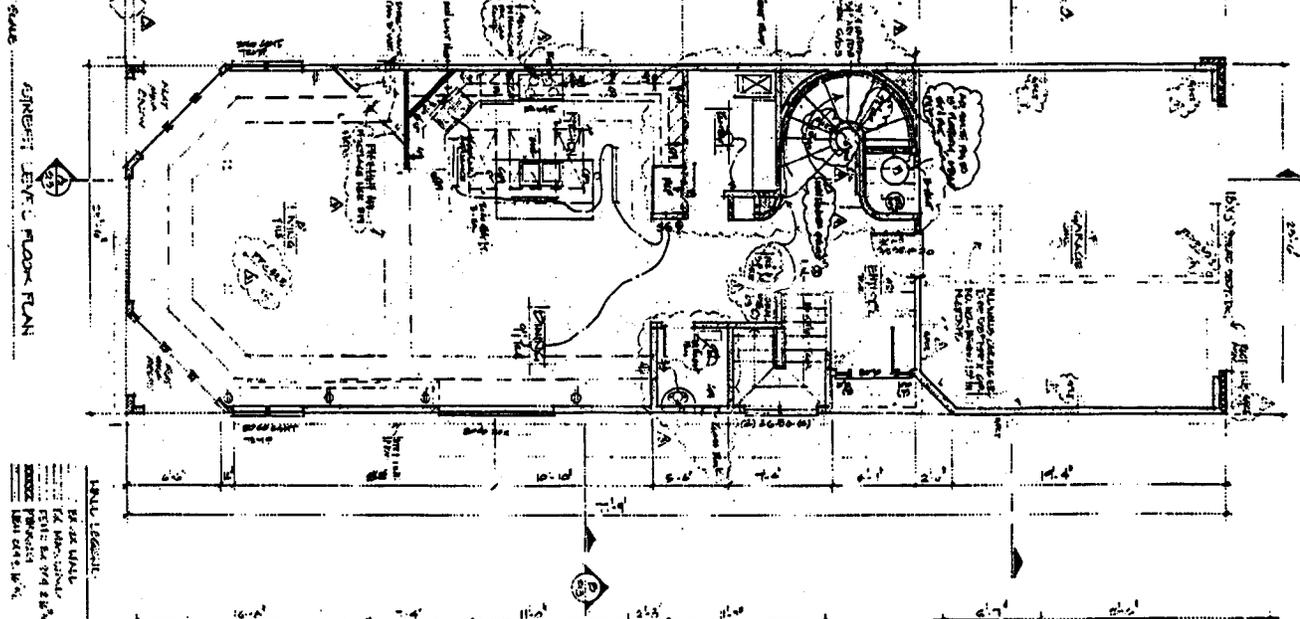
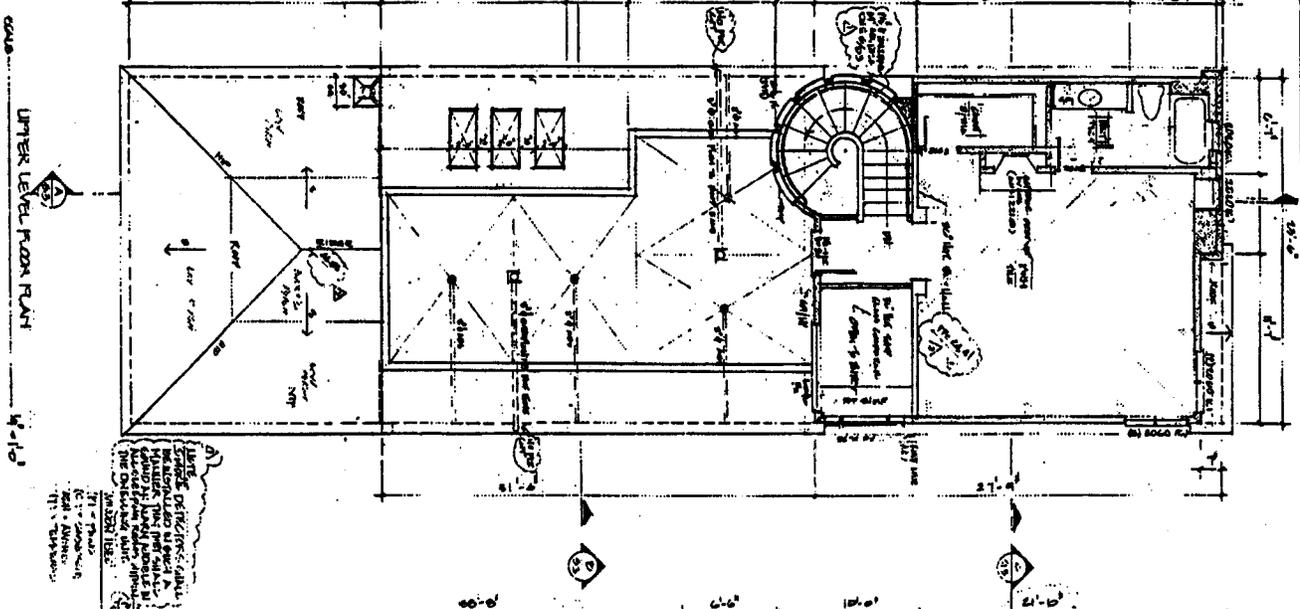
SAN DIEGO AREA  
1111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
(619) 521-8036

**ATTACHMENT "A"--Liguori Appeal**

The proposal includes a 973 sq.ft. addition to an existing 2,528 sq.ft. single family residence on a 4800 sq.ft. oceanfronting lot in Oceanside. Approximately 661 sq.ft. of the proposed 3,501 sq.ft. residence is a second story addition over the existing 268 sq.ft. garage. The remaining 312 sq.ft. already exists in the form of existing outdoor deck area which is proposed to be enclosed as new living space and represents the most seaward expansion. A 195 sq.ft. garage expansion is also proposed to enclose the existing covered entryway and consolidation of that area into a 2-car garage.

The second story addition over the garage is designed at 23 feet in height which is below the 27-foot height limit certified in the Oceanside LCP. The conversion of the existing additions to living space on the beach side of the property will not extend beyond the limits of the stringline as depicted on the certified Stringline Map. According to the plans, the existing residence extends to 74 feet from the seaward right of way of South Pacific Street and the proposed addition would extend the house to 80 feet from the right of way. The stringline represents the limits of structural expansion toward the beach. Based upon the stringline map, the stringline is measured at approximately 80-feet from the South Pacific Street property line. An existing patio and spa would remain that is 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.

It appears the project approved by the City extends to the limit of the stringline and represents the largest house within the project area (Residentially zoned properties within the 1700 block). Policy 8 of the certified LUP requires that new development be compatible in scale and character with the surrounding area. As approved by the City, it appears that the project would not be compatible with the size and scale of existing development as the development will extend to the maximum limit of the stringline, resulting in the furthest seaward extension of any development on the block.



UPPER LEVEL FLOOR PLAN  
 1/4" = 1'-0"

GROUND LEVEL FLOOR PLAN  
 1/4" = 1'-0"

LOWER LEVEL FLOOR PLAN  
 1/4" = 1'-0"

BASEMENT FLOOR PLAN  
 1/4" = 1'-0"

UPPER LEVEL FLOOR PLAN  
 1/4" = 1'-0"

GROUND LEVEL FLOOR PLAN  
 1/4" = 1'-0"

LOWER LEVEL FLOOR PLAN  
 1/4" = 1'-0"

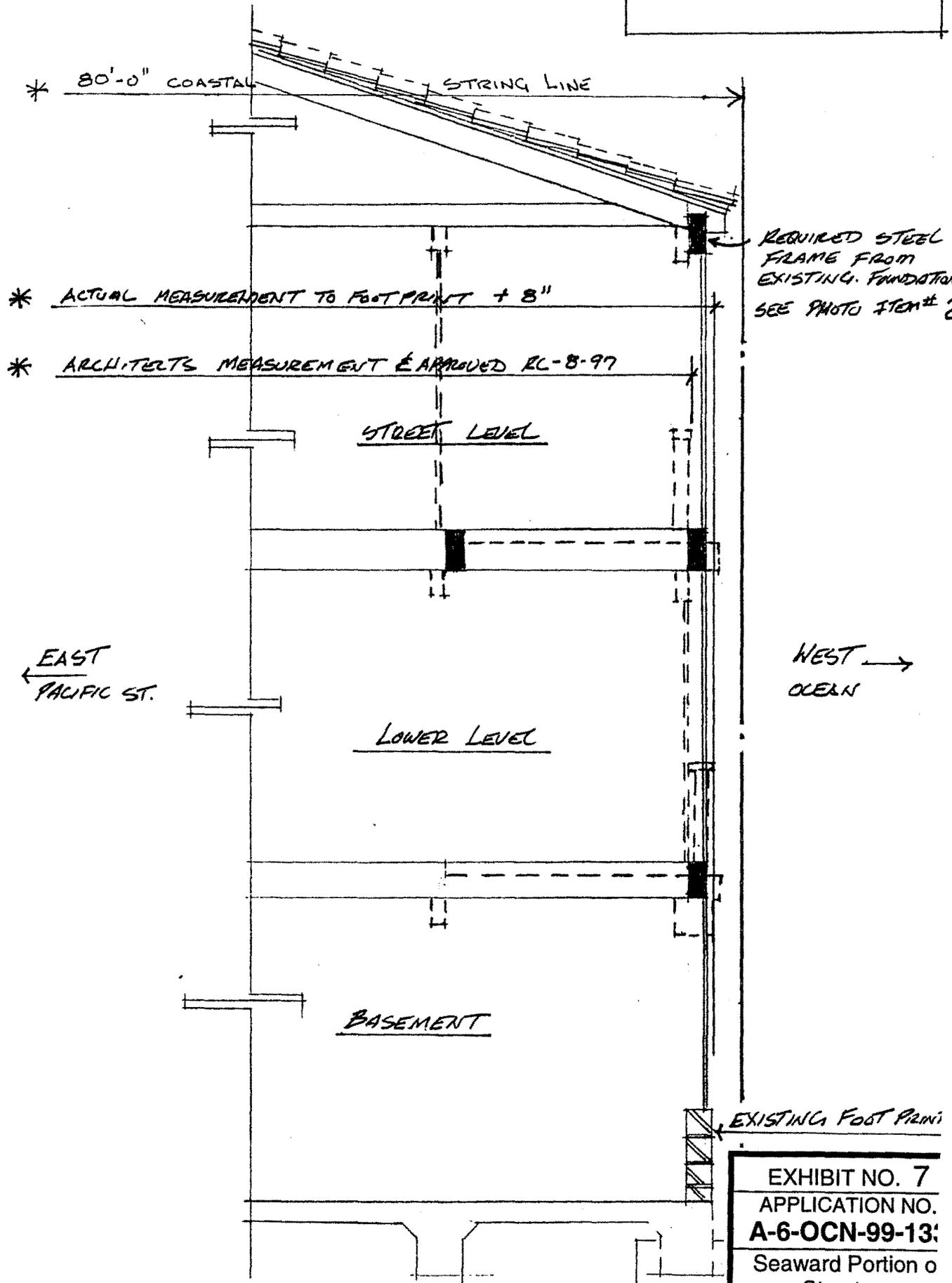
SHEET: A-6

1731 So. PACIFIC STREET

F.W. PHILLIPS  
 ARCHITECTURE & INTERIORS  
 3911  
 Henry  
 Street  
 San Diego  
 CA 92118  
 (619) 295-2722  
 FX (619) 295-2994

EXHIBIT NO. 6  
 APPLICATION  
 A-6-OCN-99-133  
 Floor Plan

ITEM # 1



REQUIRED STEEL FRAME FROM EXISTING FOUNDATION SEE PHOTO ITEM # 2

\* 80'-0" COASTAL

\* ACTUAL MEASUREMENT TO FOOTPRINT + 8"

\* ARCHITECTS MEASUREMENT & APPROVED RC-8-97

EAST  
← PACIFIC ST.

WEST →  
OCEAN

BASEMENT

LOWER LEVEL

STREET LEVEL

EXISTING FOOT PRINT

EXHIBIT NO. 7  
APPLICATION NO.  
**A-6-OCN-99-13**  
Seaward Portion of  
Structure

RECEIVED

NOTICE OF FINAL ACTION  
REGULAR COASTAL PERMIT

SEP 28 1999

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

DATE: February 19, 1999

The following project is located within the City of Oceanside Coastal Zone. A Coastal Permit application for the project has been acted upon.

Applicant: Thomas A. Liouri

Agent: Daniel B. Persichetti

Address: 15555 Stage Coach Rd.  
Poway, CA 92064-8615

Address: 2495 Rock View Glen  
Escondido, CA 92026

Phone: (619) 675-3000 X1234

Phone: (760) 749-4458

Project Location: 1731 South Pacific Street, Oceanside, CA 92054

AP Number: 153-091-31

Acresage (or lot area): 4900 sf

Zoning: RS Single Family Residential General Plan (UP): Single Family Detached

Proposed Development: A 973 square-foot living space addition to an existing 2,528 square-foot single dwelling residence.

Application File Number: RC-3-97

Filing Date: July 1, 1997

Action By: City Planning Commission, February 8, 1999

Action:        Approved        Denied   XX   Approved with Conditions

Conditions of Approval: (see Planning Commission Resolution No. 99-P12 attached)

Findings: (see Planning Commission Resolution No. 99-P12 attached)  
(Alternatively, could attach Resolution of adoption.)

EXHIBIT NO. 8
APPLICATION NO.
<b>A-6-OCN-99-133</b>
Original Notice of Final Action
Pages 1-8
 California Coastal Commission

NA Appealable to the Oceanside Planning Commission in writing within 10 days of Planning Director's decision. That decision was made on \_\_\_\_\_ making the appeal date \_\_\_\_\_.

XX Appealable to the Oceanside City Council in writing within 10 days of the adoption of the decision resolution by the Planning Commission. That date was February 8, 1999 making the appeal deadline date February 18, 1999. The appeal, accompanied by a \$656 filing fee, must be filed in the City Clerk's Office, 300 North Hill Street, Oceanside, no later than 4:30 p.m. on the appeal deadline date mentioned above.

NA (For projects in the Redevelopment Area.) Appealable to the Community Development Commission in writing within 20 days of the adoption of the decision resolution of the Planning Commission. That date was \_\_\_\_\_ making the appeal deadline date \_\_\_\_\_. The appeal, accompanied by a filing fee of \$656, must be filed in the City Clerk's Office, 300 North Hill Street, Oceanside, no later than 4:30 p.m. on the appeal deadline date mentioned above.

XX Appealable to the Coastal Commission pursuant to Public Resources Code Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days of the Coastal Commission's receipt of the Notice of Final Action.

Address: California Coastal Commission  
San Diego District Office  
3111 Camino del Rio North, Suite 200  
San Diego, CA 92108-1725  
Phone: (619) 521-8036

Please mail copies to: (1) California Coastal Commission, (2) Applicant, (3) anyone requesting notification within seven (7) days following decision.

1 PLANNING COMMISSION  
2 RESOLUTION NO. 99-P12

3 A RESOLUTION OF THE PLANNING COMMISSION OF  
4 THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A  
5 REGULAR COASTAL PERMIT ON CERTAIN REAL  
6 PROPERTY IN THE CITY OF OCEANSIDE

7 APPLICATION NO: RC-8-97  
8 APPLICANT: Thomas A. Ligouri  
9 LOCATION: 1731 South Pacific Street

10 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
11 RESOLVE AS FOLLOWS:

12 WHEREAS, there was filed with this Commission a verified petition on the  
13 forms prescribed by the Commission requesting a Regular Coastal Permit under the  
14 Local Coastal Program and provisions of Article 10 of the Zoning Ordinance of the  
15 City of Oceanside to permit the following:

16 a remodel and living space addition to an existing residence;  
17 on certain real property described in the project description.

18 WHEREAS, the Planning Commission, after giving the required notice, did on  
19 the 8<sup>th</sup> day of February, 1999 conduct a duly advertised public hearing as prescribed  
20 by law to consider said application.

21 WHEREAS, the Planning Commission finds the project is exempt from the  
22 requirements of environmental review pursuant to the provisions of the California  
23 Environmental Quality Act.

24 WHEREAS, there is hereby imposed on the subject development project  
25 certain fees, dedications, reservations and other exactions pursuant to state law and  
26 city ordinance;

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN  
that the project is subject to certain fees, dedications, reservations and other  
exactions as provided below:

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
School Facilities Mitigation Fee	Ordinance No. 91-34	\$1.93 sq. ft.

1           WHEREAS, the current fees referenced above are merely fee amount  
2 estimates of the impact fees that would be required if due and payable under  
3 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;

4           WHEREAS, unless otherwise provided by this resolution, all impact fees shall  
5 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.

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

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

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

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

15           FINDINGS:

16           For the Regular Coastal Permit:

- 17           1.     The proposed project is consistent with the policies of the Local Coastal  
18 Program as implemented through the City Zoning Ordinance.
- 19           2.     The proposed project will not obstruct any existing or planned public beach  
20 access; therefore, the project is in conformance with the policies of Chapter  
3 of the Coastal Act.

21           NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does  
22 hereby approve Regular Coastal Permit (RC-8-97) subject to the following conditions:

23           CONDITIONS:

24           Building:

- 25           1.     Applicable Building Codes and Ordinances shall be based on the date of  
26 submittal for Building Department plan check.

- 1 2. The granting of approval under this action shall in no way relieve the  
2 applicant/project from compliance with all State and local building codes.
- 3 3. Application for Building Permit will not be accepted for this project until plans  
4 indicate that they have been prepared by a licensed design professional  
5 (Architect or Engineer). The design professional's name, address, phone  
6 number, State license number and expiration date shall be printed in the title  
7 block of the plans.
- 8 4. All electrical, communication, CATV, et. Service lines within the exterior lines  
9 of the property shall be underground (City Code Sect. 6.30).

10 Fire Prevention:

- 11 5. Plans shall be submitted to the Fire Prevention Bureau for review and approval  
12 prior to the issuance of building permits.

13 Engineering:

- 14 6. The developer shall monitor, supervise and control all construction and  
15 construction-supportive activities, so as to prevent these activities from  
16 causing a public nuisance, including but not limited to, insuring strict  
17 adherence to the following:
- 18 a) Removal of dirt, debris and other construction material deposited on  
19 any public street no later than the end of each working day.
  - 20 b) All building and construction operations, activities and deliveries shall  
21 be restricted to Monday through Friday, from 7:00 A.M. to 6:00 P.M.,  
22 unless otherwise extended by the City.
  - 23 c) The construction site shall accommodate the parking of all motor  
24 vehicles used by persons working at or providing deliveries to the site.

25 Violation of any condition, restriction or prohibition set forth in this resolution  
26 shall subject the development plan to further review by the Planning  
Commission. This review may include revocation of the development plan,  
imposition of additional conditions and any other remedial action authorized by  
law.

- 27 7. The developer shall be required to join into, contribute, or participate in any  
28 improvement, lighting, or other special district affecting or affected by this  
29 project. Approval of the project shall constitute the developer's approval of  
30 such payments, and his agreement to pay for any other similar assessments  
31 or charges in effect when any increment is submitted for final map or building  
32 permit approval, and to join, contribute, and/or participate in such districts.
- 33 8. Design and construction of all improvements shall be in accordance with  
34 standard plans, specifications of the City of Oceanside and subject to  
35 approval by the City Engineer.

- 1 9. A traffic control plan shall be submitted to and approved by the City Engineer  
2 prior to the start of work within open City rights-of-way or easements. Traffic  
3 control during construction adjacent to or within all public streets or  
4 easements must meet all CalTrans and City standards.
- 5 10. Any broken pavement, concrete curb, gutter or sidewalk or any damaged  
6 during construction of the project, shall be repaired or replaced as directed by  
7 the City Engineer. Existing utilities and improvements on Pacific Street shall  
8 be installed, repaired, and/or replaced to the satisfaction of the City Engineer.
- 9 11. All connections to existing City water mains are to be made with new  
10 materials. New materials include the replacement and/or upgrade of all  
11 existing fittings with new tees or new crosses, as applicable, and the  
12 installation of a new valve on each branch.
- 13 12. Any on-site grading or landscaping construction shall be in accordance with  
14 the City's current Grading Ordinance.
- 15 13. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-  
16 site and disposed of in accordance with all state and federal requirements,  
17 prior to stormwater discharge either off-site or into the City drainage system.
- 18 14. Development shall be in accordance with City Floodplain Management,  
19 Stormwater Management, and Discharge Regulations.
- 20 15. A Precise Grading and Private Improvement Plan shall be prepared,  
21 reviewed, secured and approved prior to the issuance of any building  
22 permits. The plan shall reflect all pavement, flat-work, landscaped areas,  
23 special surfaces, curbs, gutters, footprints of all structures, walls, drainage  
24 devices, typical seawall detail (M-19) and utility services. The applicant  
25 shall be required to provide a wave study for the project or use the City's  
26 standard (M-19) seawall detail.

Planning:

- 16 16. This Regular Coastal Permit approves only the following: a remodel to an  
17 existing residence and consisting of approximately 973 square-feet of  
18 additional living space and expansion of an existing garage to a two-car size.  
19 Any substantial modification in the design or layout shall require a revision to  
20 the Coastal Permit or a new Coastal Permit.
- 21 17. This Regular Coastal Permit shall expire on February 8, 2001 unless  
22 implemented as required by the Zoning Ordinance or a time extension is  
23 approved as required by the Zoning Ordinance.
- 24 18. A letter of clearance from the affected school district in which the property is  
25 located shall be provided as required by City policy at the time building  
26 permits are issued.

- 1 19. The physical aspects of this project as depicted by the application plan  
2 materials for elevations, finish materials, and floor plans shall be substantially  
3 the same as those approved by the Planning Commission. These shall be  
4 shown on plans submitted to the Building Department and Planning  
5 Department.
- 6 20. This project is approved as a two-story structure plus a basement floor. Plans  
7 submitted to the Building Department for building permits shall demonstrate  
8 that the "basement" floor actually qualifies as a basement under the  
9 provisions of the Uniform Building Code.
- 10 21. Unless expressly waived, all current zoning standards and City ordinances and  
11 policies in effect at the time building permits are issued are required to be met  
12 by this project. The approval of this project constitutes the applicant's  
13 agreement with all statements in the Description and Justification,  
14 Management Plan and other materials and information submitted with this  
15 application, unless specifically waived by an adopted condition of approval.
- 16 22. A covenant or other recordable document approved by the City Attorney shall  
17 be prepared by the applicant and recorded prior to the issuance of building  
18 permits. The covenant shall provide that the property is subject to this  
19 Resolution, and shall generally list the conditions of approval.
- 20 23. Prior to the approval of a building permit, the applicant, as landowner, shall  
21 execute and record a deed restriction, in a form and content acceptable to the  
22 City Attorney, which shall provide:
- 23 a) That the applicant understands that the site may be subject to  
24 extraordinary hazard from waves during storms and from erosion, and  
25 the applicants assume the liability from those hazards.
  - 26 b) The applicant unconditionally waives any claim of liability on the part of  
the City and agrees to indemnify and hold harmless the City and its  
advisors relative to the City's approval of the project for any damage  
due to natural hazards. The document shall run with the land, binding  
all successors and assigns, and shall be recorded in a form determined  
by the City Attorney.
- 27 24. Prior to the issuance of building permits the applicant/owner is asked to make  
an irrevocable offer of dedication, to the City of Oceanside, for an easement  
for lateral public access and passive recreational use along the shoreline  
adjacent to this property. The offer of dedication shall not be used or  
construed to allow anyone, prior to acceptance of the offer, to interfere with  
any rights of public access acquired through use, which may exist on the  
property. The easement shall be located along the entire width of the

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property line, from the surfline to the toe of the seawall. The document shall be recorded free of prior liens which the City Engineer determines may affect the interest being conveyed and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the City of Oceanside and binding to all successors and assignees.

25. The maximum height of all fences, walls, and similar structures on the property shall be limited in accordance with the provisions of the Zoning Ordinance. As such, the front, street-side entry gate is currently limited to 6 feet in height.

Water Utilities:

26. The developer shall be responsible for developing all water and sewer facilities necessary to this property. Any relocation of water or sewer lines are the responsibility of the developer.

PASSED AND ADOPTED Resolution No. 99-P12 on February 8, 1999 by the following vote, to wit:

AYES: Schaffer, Barrante, Bockman, Miller, Staehr, Price and Akin

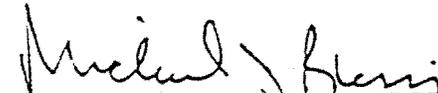
NAYS: None

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
Robert L. Schaffer, Chairman  
Oceanside Planning Commission

ATTEST:

  
\_\_\_\_\_  
Michael J. Blessing, Secretary

I, MICHAEL J. BLESSING, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 99-P12.

Dated: Feb 8, 1999

**SUMMONS**  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT: (Aviso a Acusado)  
CALIFORNIA COASTAL COMMISSION, A GOVERNMENTAL  
AGENCY, AND DOES 1 THROUGH 100, INCLUSIVE

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**RECEIVED**

DEC 07 2000

YOU ARE BEING SUED BY PLAINTIFF:  
(A Ud. le está demandando)  
THOMAS A. LIGUORI

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

You have 30 CALENDAR DAYS after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencias de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre y dirección de la corte es)  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
NORTH COUNTY BRANCH  
325 So. Melrose Drive  
Vista, CA 92083-6693

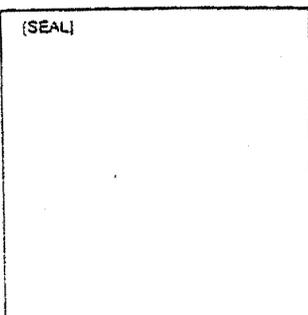
CASE NUMBER (Número del Caso) **431**  
**GINO 9431**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)  
SANDRA J. BROWER, Esq. SBN 081600 (619) 233-1888  
SULLIVAN WERTZ MCDADE & WALLACE  
945 FOURTH AVENUE  
SAN DIEGO, CA 92101

Stephen Thunberg

DATE: **DEC - 1 2000**  
(Fecha)

Clerk, by T. ROBERTO, Deputy  
(Actuario) (Delegado)



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):

3.  on behalf of (specify): California Coastal Commission,  
a governmental agency

- under:  CCP 416.10 (corporation)  CCF  
 CCP 416.20 (defunct corporation)  CCF  
 CCP 416.40 (association or partnership)  CCF

4.  other: form with envelope!  
 by personal delivery on (date): 12-7-00

(See reverse for Proof of Service)

SUMMONS

<b>EXHIBIT NO. 9</b>
<b>APPLICATION</b>
<b>A-6-OCN-99-133</b>
<b>Applicant's Lawsuit</b>
Pages 1-7
California Coastal Commission

1 Sandra J. Brower, Esq. (SBN 081600)  
2 John C. Hughes, Esq. (SBN 178202)  
3 SULLIVAN WERTZ McDADE & WALLACE  
4 A Professional Corporation  
5 945 Fourth Avenue  
6 San Diego, California 92101  
7 (619) 233-1888

8 Attorneys for plaintiff Thomas A. Liguori

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

10 NORTH COUNTY BRANCH

11 **GIN009431**

12 Thomas A. Liguori

13 CASE NO.

14 Plaintiff.

15 COMPLAINT FOR DECLARATORY  
16 RELIEF

17 v.

18 California Coastal Commission, a governmental  
19 agency, and Does 1 through 100, inclusive

20 Defendants.

21 Plaintiff Thomas A. Liguori ("Liguori" or "plaintiff") alleges as follows:

22 1. At all times herein mentioned Liguori was, and is now, a resident of the County of San  
23 Diego, State of California.

24 2. Liguori is, and at all times mentioned herein was, the owner of property situated in San  
25 Diego County located at 1731 South Pacific Street in the City of Oceanside, State of California ("the  
26 subject property").

27 3. Defendant California Coastal Commission ("the Coastal Commission" or "defendant")  
28 at all times herein mentioned was, and is now, a State of California government agency.

1 The true names and capacities of defendants Does 1 through 100, inclusive, whether  
individual, corporate, associate, governmental, or otherwise are unknown to Liguori, however,  
Liguori is informed and believes and thereon alleges the each of said defendants designated herein as

1 a "Doe" is responsible in some manner for the events and happenings, and caused damages  
2 proximately thereby to Liguori as herein alleged. Liguori therefore sues said defendants by such  
3 fictitious names and will ask leave to amend this complaint to show their true names and capacities  
4 when the same have been ascertained.

5 5. By resolution passed and adopted by unanimous vote on February 8, 1999 ("Resolution  
6 No. 99-P12") the City of Oceanside Planning Commission approved and permitted a remodel of  
7 living space and addition to the subject property.

8 6. The time for appeal to the Coastal Commission expired, building permits were issued  
9 by the City of Oceanside, and construction commenced.

10 7. More than eight months later, on October 13, 1999, an appeal of the City of  
11 Oceanside's decision was filed with the Coastal Commission. By that time, the City of Oceanside's  
12 determination had become final.

13 8. On October 12, 1999, the City of Oceanside issued a stop work order. The stop work  
14 order was prompted by reports that the project was not proceeding in accordance with the plan the  
15 City of Oceanside approved in February 1999. The stop work order was not issued in response to,  
16 and did not relate to, the October 13, 1999 appeal.

17 9. On December 8, 1999, the Coastal Commission held a hearing to determine whether the  
18 appeal raised "substantial issues," which, if the time for appeal had not expired, would provide a basis  
19 for the Coastal Commission to proceed with a de novo review of the City of Oceanside's decision on  
20 the project initially approved by resolution on February 8, 1999.

21 10. The Coastal Commission determined that substantial issues existed.

22 11. By resolution dated April 24, 2000 (Resolution No. 2000-P21), the City of Oceanside  
23 Planning Commission approved revisions to the project. Said resolution permitted the work that was  
24 stopped pursuant to the October 12, 1999 stop work order.

25 12. On May 4, 2000, the April 24, 2000 resolution was appealed to the City of Oceanside  
26 City Council. The appeal was subsequently denied. No appeal was made to the Coastal  
27 Commission. Accordingly, Resolution No. 2000-P21 permitting certain work at the subject property  
28

1 was, and is, entirely valid.

2 13. Notwithstanding the revised and approved project (Resolution No. 2000-P21), which  
3 was not appealed to the Coastal Commission, the Coastal Commission intends to schedule a de novo  
4 hearing to review the City of Oceanside's February 8, 1999 decision; Resolution No. 99-P12.

5 14. An actual controversy has arisen and now exists between plaintiff and defendant  
6 concerning their respective rights and duties in that plaintiff contends:

7 a) The Coastal Commission does not have jurisdiction to hear an appeal  
8 relating to Resolution No 99-P12 since the appeal was untimely when filed on  
9 October 13, 1999, more than eight months after the City of Oceanside passed the  
10 subject resolution on February 8, 1999 (Resolution No. 99-P12). Further, the  
11 lapse in time between the City of Oceanside's determination, and the Coastal  
12 Commission's hearing regarding substantial issues is unreasonable.

13 b) The Coastal Commission does not have jurisdiction to hear an appeal  
14 relating to Resolution No. 2000-P21. The proposed project was altered, plaintiff  
15 sought approval of the revised project, and obtained said approval via the  
16 resolution passed April 24, 2000. An appeal was made to the City Council,  
17 which was denied. There was no appeal made to the Coastal Commission,  
18 accordingly, the Coastal Commission cannot properly review the City of  
19 Oceanside's decision.

20 15. Plaintiff is informed and believes defendant disputes these contentions.

21 16. Plaintiff desires a judicial determination of his rights and duties, and a declaration as to  
22 such. Specifically, whether the Coastal Commission has jurisdiction to proceed with a de novo  
23 hearing in light of the facts.

24 17. A declaration is necessary and appropriate at this time under the circumstances in order  
25 that plaintiff may ascertain his rights and duties.

26 ///

27 ///

1 WHEREFORE, plaintiff prays for judgment against defendant as follows:

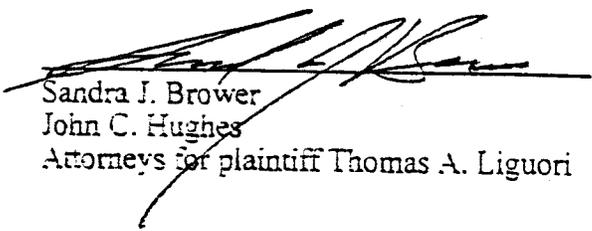
2 1. For a judicial determination of the rights, duties, and obligations of the parties as to the  
3 Coastal Commission's jurisdiction, and specifically, that the Coastal Commission has no jurisdiction  
4 to hear an appeal of either City of Oceanside Resolution Nos. 99-P12 or 2000-P21;

5 2. For attorneys' fees and costs incurred; and

6 3. For such other and further relief as the court determines is just and proper.

7 DATED: November 30, 2000

SULLIVAN WERTZ McDADE & WALLACE  
A Professional Corporation

8  
9  
10 By: 

Sandra I. Brower

John C. Hughes

Attorneys for plaintiff Thomas A. Liguori

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

INDEPENDENT CALENDAR CLERK

325 S. Melrose  
Vista, CA 92083

TO:

SANDRA J. BROWER  
SULLIVAN WERTZ MCDADE & WALLACE  
945 FOURTH AVENUE  
SAN DIEGO, CA 92101

THOMAS A. LIGUORI

Plaintiff(s)

vs.

CALIFORNIA COASTAL COMMISSION

Defendant(s)

Case No.: GIN009431

NOTICE OF CASE ASSIGNMENT

Judge: MICHAEL M. ANELLO

Department: 26

Phone: 760-806-6348

This case IS NOT eligible to participate in a  
pilot mediation program.

COMPLAINT FILED 12/01/00

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

**COMPLAINTS:** Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SUPCT CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document. (Rule 5.6)

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.) (Rule 5.7)

**DEFAULT:** If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service. (Rule 5.8)

**CASE MANAGEMENT CONFERENCE:** A Case Management Conference will be set within 150 days of filing the complaint.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN MEDIATION OR ARBITRATION PURSUANT TO CCP 1730 OR 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO MEDIATION UNDER THE MEDIATION PILOT PROGRAM, OR TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SUPCT CIV-357 OR 358 PRIOR TO THAT HEARING.

ALSO SEE THE ATTACHED NOTICE TO LITIGANTS.

CERTIFICATE OF SERVICE

I, STEPHEN THUNBERG, certify that: I am not a party to the above-entitled case; on the date shown below, I served this notice on the parties shown by placing a true copy in a separate envelope, addressed as shown; each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at VISTA California.

Dated: 12/01/00

STEPHEN THUNBERG

Clerk of the Superior Court

by PAMELYN SEBRING, Asst. Div. Chief

## NOTICE TO LITIGANTS

You are required to serve a copy of the following documents with the Summons and Complaint on all defendants in accordance with San Diego Superior Court Rule 5.6:

- A copy of this Notice to Litigants; and
- A copy of the Notice of Case Assignment.

Filing the Certificate of Service will signify that this information has been served on all defendants.

---

### SAN DIEGO SUPERIOR COURT MEDIATION PILOT PROGRAM (Effective for cases filed on or after February 28, 2000)

This case has been assigned to a department that is NOT PARTICIPATING in the mediation pilot program. Accordingly, your case CANNOT BE ORDERED TO THE COURT REFERRED MEDIATION PROGRAM. However, we are providing the following information to explain the new program in the event you have other cases that fall within its scope and to clarify your available alternative dispute resolution options.

**Program Overview:** The San Diego Superior Court has been selected by the Judicial Council to participate in a pilot program for the early mediation of civil cases (referred to as the "mediation pilot program") established by Code of Civil Procedure section 1730 et seq. and the California Rules of Court rules 1640 et seq. The former court-ordered mediation program (established by CCP 1775 et seq. and applicable to all cases filed on or before February 27, 2000) shall end upon completion of mediation of all cases under that program. No case filed after that date may be ordered to the old mediation program.

In addition, no case filed on or after February 28, 2000 and assigned to a non-participating department may be ordered to mediation under the new mediation pilot program. The department to which this matter has been assigned is a non-participating department. Accordingly, this matter cannot be ordered to the new mediation pilot program.

The new mediation pilot program is designed to assess the benefit- of early mediation and authorizes the court to 1) schedule early Case Management Conferences (ECMC), 2) order cases to mediation, and 3) allow parties to stipulate to early mediation in advance of the ECMC. San Diego Superior Court Rule 9.8 addresses the program specifically.

#### **Available Alternatives to Litigation:**

**Voluntary Mediation:** Because your case has been assigned to a department that is not participating in the mediation pilot program, your case will not be ordered to mediation by the court. However, you may stipulate to voluntary mediation outside the court system. If you choose to do so, mediator fees must be paid by the litigants and will not be paid by court. The existing option of private mediation is unaffected by the new mediation pilot program.

**Judicial Arbitration:** No changes in arbitration procedures have been made. The judicial arbitration program remains available to all cases in San Diego County. Please refer to Superior Court Rules 9.1 and 9.2.

Voluntary mediation and other alternative dispute resolution services are available in San Diego County, including Dispute Resolution Programs Act funded programs. For more information, please see the ADR Services sheet located in the Business office and the Arbitration/Mediation office.

**Program Evaluation:** The Judicial Council has requested that the court collect information from civil litigants and their attorneys about what methods they used to try to resolve their case, how long it took to resolve the case, the costs associated with resolving the case, and how satisfied they were with the process(es) used to try to reach resolution. In order to obtain this information, the court will be sending written surveys to parties in some civil cases, including those cases not included in the pilot mediation program. Researchers working on the program may also be contacting parties in some civil cases to conduct brief telephone interviews. The court appreciates your cooperation in this information collection effort. The time you spend providing us with information about your experience will help both this court and other courts throughout California in providing high quality appropriate dispute resolution services to civil litigants.

Thank you for your cooperation and assistance in this matter.



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SEP 20 2000

Sullivan Wertz McDade & Wallace  
A PROFESSIONAL CORPORATION

LAWYERS

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT  
945 FOURTH AVENUE  
SAN DIEGO, CALIFORNIA 92101

SANDRA J. BROWER  
RICHARD T. FORSYTH  
ERIN M. GEE  
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PAMELA LAWTON WILSON

TELEPHONE (619) 233-1888  
FACSIMILE (619) 696-9476

September 20, 2000

lheidel@swms.com

OF COUNSEL  
EVAN S. RAVICH  
JANE A. WHITWORTH  
ADMINISTRATOR

VIA MESSENGER

Bill Ponder, Coastal Planner  
California Coastal Commission  
San Diego Coast Area  
7575 Metropolitan Drive, 103  
San Diego, CA 92108-4402

Re: Ligouri Residence: 1731 South Pacific, Oceanside

Dear Mr. Ponder:

We represent the applicant, Mr. Tom Ligouri, with respect to the referenced project. On July 19, 2000 the City of Oceanside approved the project as modified. The City sent a Notice of Final Action dated July 28, 2000 to the San Diego office of the Coastal Commission, and you issued a Notification of Appeal Period on August 4, 2000. You have informed me that no one appealed the City's approval during the specified appeal period. Therefore, the City's approval is final.

I understand that the Commission found substantial issue with respect to a previously filed appeal (A-6-CN-99-133) and that a de novo hearing was to have been held. You apparently informed my client that such hearing could not occur until the City took action on the project as modified. As stated above, my client proceeded to obtain such approval from the City. The previously approved and appealed project is therefore no longer valid. The only project currently relevant to these proceedings is the permit that was approved and not appealed.

Notwithstanding the facts stated above, you have informed me that you intend to proceed with a public hearing to approve or deny a previously appealed project on the same property. We believe, however, that the previous appeal is now moot because a new permit has been approved by the City and that permit was not appealed.

EXHIBIT NO. 11  
APPLICATION  
**A-6-OCN-99-133**  
Applicant's Letter  
Regarding Jurisdiction  
of Commission  
Pages 1-2

Mr. Bill Ponder  
September 20, 2000  
Page 2

Because the Coastal Commission has no grounds to hold a de novo hearing on a permit that is no longer valid, we request that the previous de novo hearing be cancelled on procedural grounds. Please contact me as soon as possible to confirm the status of the previous appeal.

Very truly yours,



Lynne L. Heidel

of

SULLIVAN WERTZ McDADE & WALLACE  
A Professional Corporation

cc: Ralph Faust  
Deborah N. Lee  
Lee McEachern  
Thomas A. Ligouri  
Daniel Persichetti

CITY OF OCEANSIDE  
BUILDING DEPARTMENT  
**MEMORANDUM**

**RECEIVED**

SEP 08 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**TO:** Bill Ponder  
California Coastal Commission

**FROM:** Gregory C. Anderson, Building Director *GCA*

**DATE:** September 5, 2000

**SUBJECT:** 1731 S. Pacific Street – Liquori Residence  
Determination of Number of Stories

---

Pursuant to our conversation last week I was contacted by Mr. Al Dudek, representing Mr. Liquori. We arranged a time for me to visit the site and take the necessary measurements to confirm the number of stories for the subject residence as it has been built.

On Friday, September 1, 2000, I, along with John Holt, Inspections Manager for the Building Department, met Mr. Dudek at the site. We ascertained the elevation of finish floor for the building level above the beach level, determined the point where exterior grade is six feet below this finish floor level, and measured the distance from the westerly edge of the building to this point. On the south side of the building this distance is 12 ft. - 0 inches; on the north side the distance is 8 ft. - 8 inches. The perimeter of the second floor level is 146 feet. The portion of that perimeter more than six feet above grade is 44 feet 8 inches, well below 50 percent of the length of the perimeter. For the sake of discussion, even if we were to consider only the floor perimeter directly above the basement level, the length of that perimeter is 92 feet, and the portion of the perimeter more than six feet above grade is still less than 50 percent of the length of the perimeter.

Based on the above data, it is clear that the first (beach) level is a basement, the level above that is the first story, and the top level is the second story based on the Building Code definition. In other words, the subject residence is two stories over a basement as defined in the Uniform Building Code (UBC). Please see attached diagrams for graphic representation.

**Code References**

UBC Section 203 – Definition – **Basement** is any floor level below the first story in a building...

UBC Section 208 – Definition – **Grade** is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line...

UBC Section 220 – Definition – **Story** is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above... If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade, as defined herein, for more than 50 percent of the total perimeter, or is more than 12 feet above grade... at any point, such... under-floor space shall be considered as a story.

UBC Section 220 – Definition – **Story, First**, is the lowest story in a building that qualifies as a story...

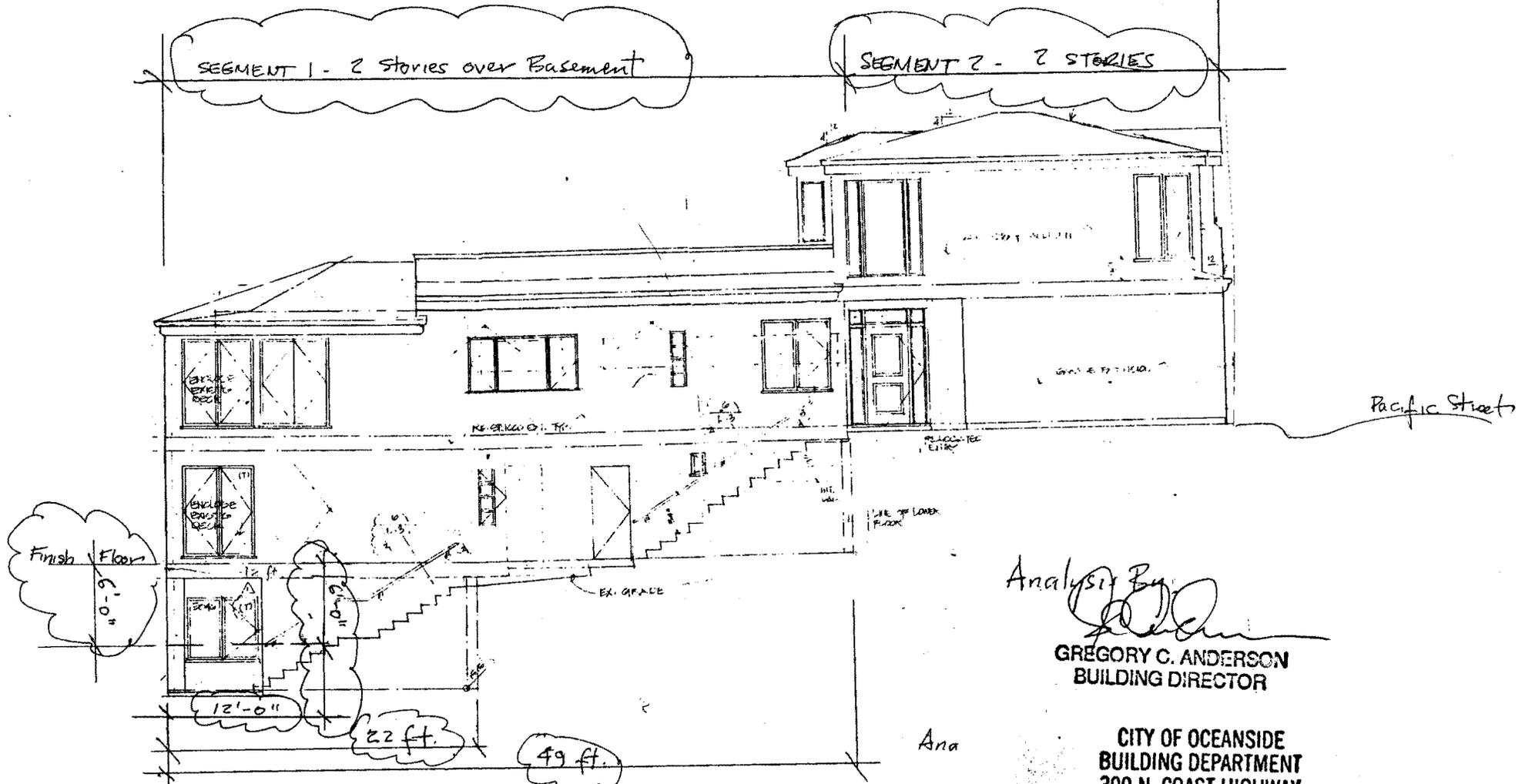
cc: Mike Blessing, Planning Director  
Eugene Ybarra, Associate Planner

EXHIBIT NO.   
APPLICATION NO.  
**A-6-OCN-99-133**  
Basement/Story Letter  
from City of Oceanside

RECEIVED

SEP 08 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



SOUTH ELEVATION  
1731 S. Pacific St  
Liquori Residence

Analysis By  
*[Signature]*  
GREGORY C. ANDERSON  
BUILDING DIRECTOR

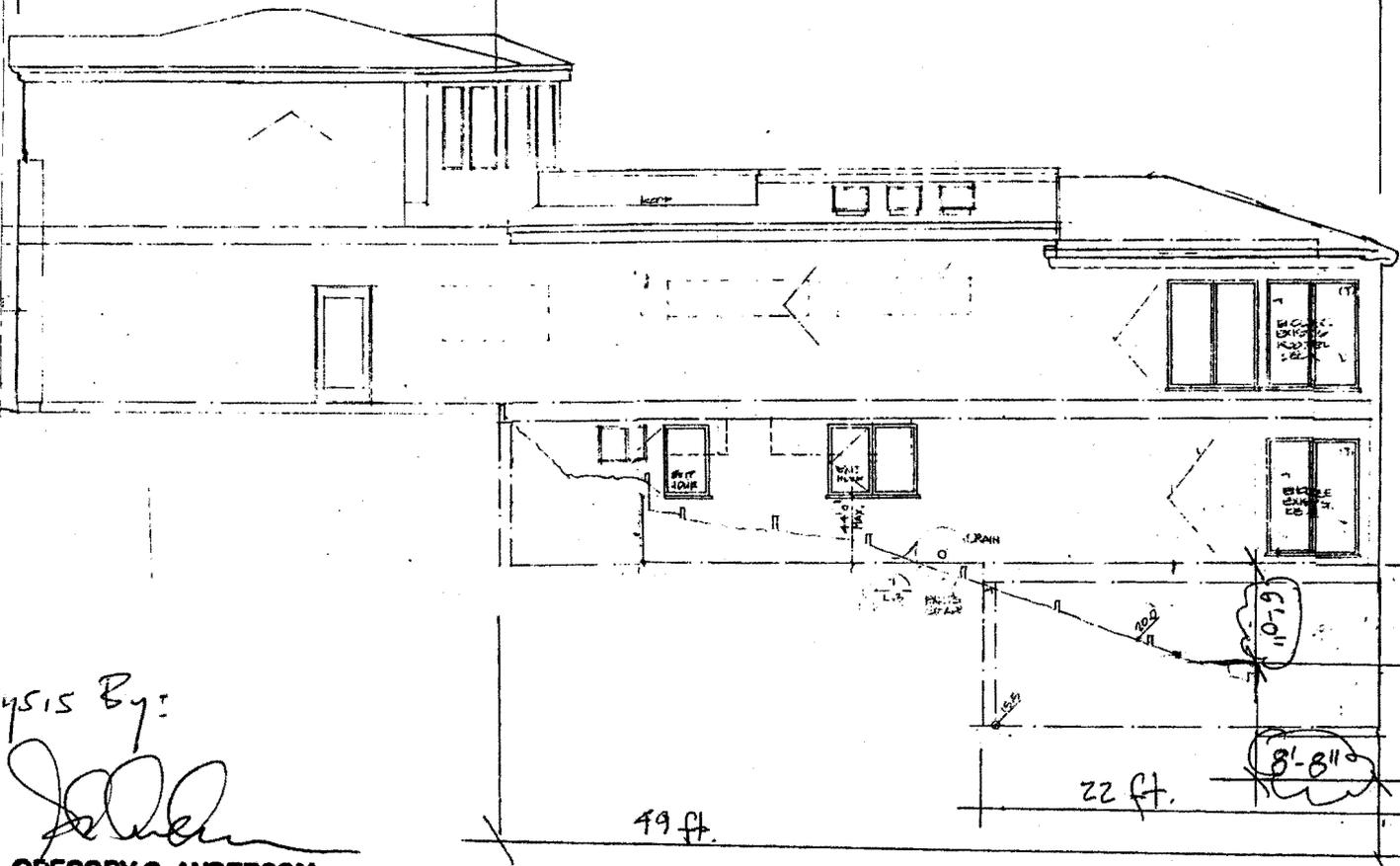
CITY OF OCEANSIDE  
BUILDING DEPARTMENT  
300 N. COAST HIGHWAY  
OCEANSIDE, CA 92054

Ana

SEGMENT 2 - 2 stories

SEGMENT 1 - 2 stories over Basement

Pacific Street



Analysis By:

GREGORY C. ANDERSON  
BUILDING DIRECTOR

CITY OF OCEANSIDE  
BUILDING DEPARTMENT  
300 N. COAST HIGHWAY  
OCEANSIDE, CA 92054

NORTH ELEVATION

1731 S. Pacific St.  
Liquori Residence

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SEP 08 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, GOVERNOR

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 VOICE AND TDD (415) 904-5200  
 FAX (415) 904-5400



October 19, 2000

Via Facsimile and U.S. Mail

Ms. Lynne L. Heidel  
 Sullivan Wertz McDade & Wallace  
 945 Fourth Avenue  
 San Diego, CA 92101  
 fax (619) 696-9476

DEC 20 2000

CALIFORNIA  
 COASTAL COMMISSION  
 SAN DIEGO COAST DISTRICT

Re: Coastal Commission Appeal A-6-OCN-99-133 (Ligouri)

Dear Ms. Heidel:

In a letter dated September 20, 2000, you requested the Coastal Commission to cancel the de novo hearing on the appeal of the coastal development permit (CDP) issued by the City of Oceanside to Mr. Tom Ligouri (A-6-OCN-99-133). As explained below, the Commission respectfully declines to cancel the de novo hearing because a valid appeal has been filed and is pending.

The original CDP issued by the City of Oceanside for Mr. Ligouri's proposed development was appealed and the Commission has found "substantial issue." Pursuant to Public Resources Code section 30623, the operation and effect of the CDP is stayed pending decision on appeal. Because the CDP is currently under review by the Commission, amendments by the City to the stayed CDP have no force and effect. The City's action to amend the CDP while it was on appeal to the Commission, therefore, does not affect the Commission's authority to conduct a de novo review of the CDP.

Even if a post-appeal amendment of a CDP by a local government could in some circumstances render an appeal to the Commission moot, such circumstances are not present here. Your letter describes the City of Oceanside's approval of the revision to Mr. Ligouri's proposed development as a "new permit" supplanting the previously approved CDP. We respectfully disagree. The City described its revision of Mr. Ligouri's original CDP as "[m]inor modifications to a previously approved Coastal Permit." The revised CDP does not purport to reauthorize the project as a whole. All of the changes to the original proposed project involve subsidiary details that cannot be constructed apart from the other, predominant aspects of the project approved by the City in the original CDP and unchanged by the revision. Because the modifications approved by the City cannot be implemented apart from the rest of the project that is now on appeal, the City's issuance of the revised permit is not a new permit for a different development that somehow renders the original CDP moot.

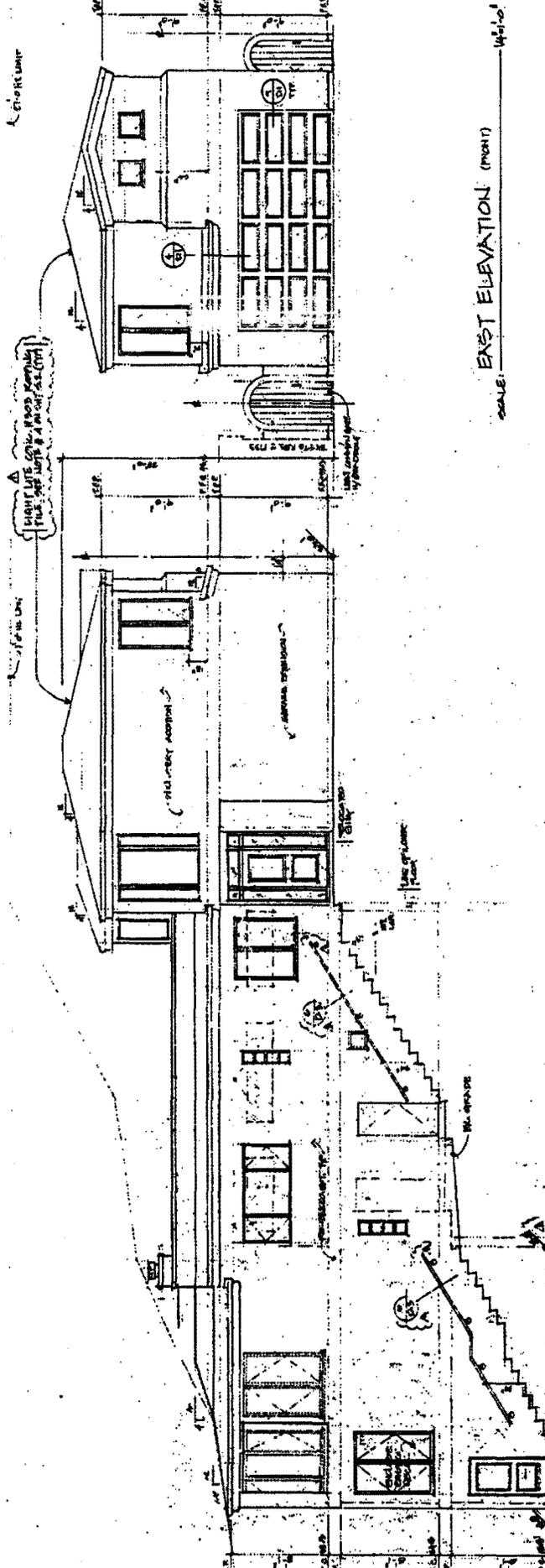
We disagree with your statement that Commission staff "informed [Mr. Ligouri] that [the de novo] hearing could not occur until the City took action on the project as modified."

EXHIBIT NO. 13
APPLICATION NO.
<b>A-6-OCN-99-133</b>
Commission Response to Jurisdictional Question

DATE:	REVISIONS:
1/10/91	1. A. B.
1/10/91	2. A. B.
1/10/91	3. A. B.

1731 So. PACIFIC STREET

SHEET: A-3  
OF 12 SHEETS



SCALE: EAST ELEVATION (front) 1/4"=1'-0"

1/4"=1'-0"

EXHIBIT NO. 14  
APPLICATION NO.  
A-6-OCN-95-33  
Elevation



Sullivan Wertz McDade & Wallace

A PROFESSIONAL CORPORATION

LAWYERS

SANDRA J. BROWER  
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lheidel@swmw.com

OF COUNSEL  
EVAN S. RAVICH

JANE A. WHITWORTH  
ADMINISTRATOR

January 3, 2001

RECEIVED

JAN 04 2001

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Chair Sara Wan and Members of the  
California Coastal Commission  
c/o San Diego Coast Area  
7575 Metropolitan Drive, 103  
San Diego, CA 92108-4402

Re. Liguori Residence: 1731 South Pacific, Oceanside; A-6-OCN-99-133

Dear Chair Wan and Members of the California Coastal Commission:

We represent the applicant, Thomas Liguori with respect to the referenced matter. For the record, our client reserves his right to object to the proceedings as set forth in the Complaint for Declaratory Relief attached to the Staff Report as Exhibit 9. However, Mr. Liguori has reviewed the Staff Report and Recommendation on Appeal, concurs with the Report, and agrees to the Special Conditions. Accordingly, we request you approve the project as recommended by Staff.

Very truly yours,

Lynne L. Heidel

of

SULLIVAN WERTZ MCDADE & WALLACE

A Professional Corporation

EXHIBIT NO. 16
APPLICATION NO.
A-6-OCN-99-133
Attorney Letter
California Coastal Commission

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370



Staff: BP-SD  
 Staff Report: February 20, 2001  
 Hearing Date: March 13-16, 2001

**Tue 13a**REVISED FINDINGS

Application No.: A-6-OCN-99-133

Applicant: Thomas Liguori

**PROJECT DESCRIPTION:** Substantial demolition and construction of 930 sq.ft. of additional floor area to an existing 2,528-sq. ft. single-family home to total 3,458 sq.ft. on a 4,800-sq. ft. oceanfront lot. The additional area includes conversion of two existing first and second story balconies and a basement level patio to create new indoor living space. The conversions total 432 sq.ft. (156 sq.ft. for each of the two balconies and 120 sq.ft. for the patio) and would result in a seaward expansion of the living area of the residence approximately 6'7" for each of the three levels. Also proposed is a 498 sq.ft. second story addition over the proposed 463 sq.ft. garage.

**PROJECT LOCATION:** 1731 South Pacific Street, Oceanside, San Diego County.  
 APN 153-091-31

STAFF NOTES:Summary of Commission Action:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on January 9, 2001 denying the application.

Date of Commission Action: January 9, 2001

Commissioners on Prevailing Side: Allgood; Dettloff; Hart; Kruer; Lee; McCoy; Orr; Weinstein; Chairperson Wan.

**SUBSTANTIVE FILE DOCUMENTS:** Certified City of Oceanside Local Coastal Program (LCP), A-6-OCN-99-20/Wilt, Wave Uprush Studies by Skelly Engineering, dated April 27, 1999, City of Oceanside Building Department Memorandum, dated September 5, 2000, Revetment Survey --Skelly Engineering, dated October 25, 2000; Revised Site Plan by Spear and Associates, dated December 6, 2000

EXHIBIT NO. 17
APPLICATION NO.
<b>A-6-OCN-99-133</b>
Revised Finding Staff Report
Pages 1-10

I. STAFF RECOMMENDATION:

**MOTION:** *I move that the Commission adopt the revised findings in support of the Commission's action on January 9, 2001 concerning A-6-OCN-99-133*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the January 9, 2001 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for A-6-OCN-99-133 on the grounds that the findings support the Commission's decision made on January 9, 2001 and accurately reflect the reasons for it.

II. Findings and Declarations.

1. Procedural Note. On February 8, 1999, the City of Oceanside approved Tom Liguori's application (App. No. RC-8-97) for a coastal development permit ("CDP"). The Commission did not receive the City's Notice of Final Action on the application until September 28, 1999. By that time, Mr. Liguori had already begun construction of the development. On October 13, 1999, the CDP was appealed to the Commission, ten working days after the Commission received the Notice of Final Action. The appellants were Allen Evans, Commissioner Wan and Commissioner Nava.

At its November 1999 meeting, the Commission opened and continued the substantial issue determination of this appeal because the City had not yet forwarded the file for the permit application to the Commission. At its December 1999 meeting, the Commission found that "substantial issue" existed regarding the consistency of the CDP with the City of Oceanside's certified LCP and with the public access and recreation policies of the Coastal Act.

In the meantime, on October 12, 1999, the City issued a Stop Work Order directing Mr. Liguori to halt construction because the construction did not conform to the plans approved in the CDP issued by the City. Subsequently, on February 16, 2000, Mr. Liguori petitioned the City to revise the previously issued CDP (App. No. RC-8-97 REVISIONS). As a courtesy to Mr. Liguori, Commission staff agreed not to proceed with the de novo hearing on the CDP until after the City completed action on the proposed revision.

On April 24, 2000, the Planning Commission approved the revisions to the permit. The Planning Commission approval was appealed to the City Council on May 4, 2000; the Council denied the appeal on July 19, 2000. The City's Notice of Final Action characterized the revision as "[m]inor modifications to a previously approved Coastal Permit." Because the original permit was already pending before the Commission for de novo review, the City's revision to the permit was not separately appealed. On December 20, 1999 Commission staff requested the applicant to provide a wave uprush study, stringline analysis and comparison of what was approved by the City to what had been built. The applicant submitted the requested information on May 5, 2000 and August 16, 2000. The applicant also submitted a revised project description on August 16, 2000 which reflected the changes the City Planning Commission approved on April 24, 2000 and were upheld by the City Council in its denial of the local appeal on July 19, 2000. On September 25, 2000 staff informed the applicant by letter that the full extent of existing and proposed residential and accessory improvements was not analyzed by the wave study to determine the need for maintenance or reconfiguration of the existing revetment. Staff requested that an analysis be provided to address what is adequate protection for the existing structure, with a separate similar analysis for the proposed improvements. On November 13, 2000 staff received the information. On December 1, 2000, staff informed the applicant by letter that there were discrepancies between cross sections indicating the seaward extent of the revetment and the revised site plan. Staff requested that an accurate cross-section and a topographically surveyed site plan be submitted so that the precise location of the revetment is known. Additionally, staff requested the applicant provide the location of the revetment toe in relation to a fixed reference point such as a surveyed property line or street monument. On December 6, 2000 the applicant provided the information and the project was subsequently set for a de novo hearing.

On December 7, 2000, Mr. Liguori filed suit against the Commission, alleging that this appeal is untimely and that the Commission therefore lacks jurisdiction.

2. Project Description/History. The proposed development involves the substantial demolition and construction of 930 sq.ft. of additional floor area to an existing 2,528-sq. ft. single-family home to total 3,458 sq.ft. on a 4,800-sq. ft. oceanfront lot. The additional area includes the conversion of two existing first and second story balconies and a basement level patio to create new indoor living space. The conversions total 432 sq.ft. (156 sq.ft. for each of the two balconies and 120 sq.ft for the patio) and would result in a seaward expansion of the living area of the residence approximately 6'7" for each of the three levels. Also proposed is a 498 sq.ft. second story addition over the proposed 463 sq.ft. garage.

The project site is located on the west side of Pacific Street, between Buccaneer Beach and Cassidy Street in the City of Oceanside. An existing rock revetment is located on the beach seaward of the existing residence. The western boundary of the property is the mean high tide line.

The site is a sloping coastal bluff and has a 20-foot elevation differential from Pacific

Street to the existing revetment located near the western property boundary. The lot is 30 feet wide and extends westerly to the mean high tide line. A 14-foot wide at-grade concrete patio and 13-foot wide perched beach are located between the proposed new residence and the existing revetment and are proposed to remain. The existing buried toe of the revetment is approximately 28 feet inland of the mean high tide line as measured on October 25, 2000 (per the survey by Skelly Engineering). Surrounding development consists of one-and two-story single-family and multi-family residential uses on small lots.

On February 8, 1999 the City initially approved the project. However, the City did not send a Notice of Final Action to the Commission. Building permits were subsequently issued and the applicant began construction. Subsequently, in its review of another appealable development in the area, it was brought to Commission staff's attention that the project had not been noticed as an appealable project. The City was notified of this defect and subsequently sent the Notice of Final Action to the Commission office. The 10-day appeal period started and the project was appealed on October 13, 1999.

The City of Oceanside issued a Stop Work Order on October 18, 1999. The issues identified by the City in its order were: 1) The front setback did not appear to be in compliance with the approved plans; 2) The building was approximately 2-feet longer than what is shown on the approved plans; 3) The height of the building appeared to be more than what was shown on the approved plans; and 4) There were substantial differences in floor plan and elevations from what was shown on the approved plans. The order required a record of survey showing the location of the building with respect to all property lines, the Coastal Stringline, finish floor elevations and roof height. The order also required that plan revisions be submitted for approval.

In response to the above, the Planning Commission approved the below modifications, finding they were consistent with the City zoning code and coastal zone regulations.

- A correction to the original and approved building length dimension, misrepresented 8-inches shorter than the actual and pre-existing foundation length of the building;
- An approximate 12-inch expansion in the depth of the garage, and a resulting reduction in the front street yard from 2 feet 5 inches to 1 foot 4 inches, but not exceeding the average front yard setback for the blockface (10 inches);
- An overall roof height increase from 23 feet to 25 feet for the new second story addition over the garage;
- Enclosure of a pre-existing lower level patio, within the existing building footprint, and conversion of the space to living area;
- An upper level stairway and building wall change from flat to circular, but no change to side setback dimension of 3 feet minimum.

The Planning Commission's decision was upheld upon a subsequent appeal to the City Council and became final on July 19, 2000.

Regarding the first modification above, the applicant acknowledged that the overall building length dimension was erroneously misrepresented 8 inches shorter on the original plan. The original plans did not accurately reflect the overall length of the preexisting structure to the lower level foundation points. However, the correction resulted in no actual expansion to the length of the approved project.

Regarding the garage expansion and the resultant reduction in the front yard setback to 1 foot 4 inches, the City found the resultant setback is still greater than the average front yard setback of 10-inches for the properties in the area. The City found the correction to the overall building length plus the garage expansion of 12 inches results in an overall building length of 77 feet 9 inches. However, the actual lengthening of the house by 12 inches is proposed on the street side of the residence rather than the ocean side and does not result in the residence being extended seaward beyond the certified stringline. The enclosure of the balconies results in the seaward expansion of the livable area of the existing residence approximately 6'7"; however, it does not expand the first and second stories seaward beyond the existing footprint of the balconies.

Because the proposed development is the subject of an appeal of a decision of the City of Oceanside, the standard of review is the certified Oceanside Local Coastal Program and the public access and recreation policies of the Coastal Act.

3. Compatibility With Neighborhood. Three LUP Policies ( #4, #7 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:

4. The City shall maintain existing view corridors through public rights-of-way;
7. Development of sandy beach areas shall be restricted to those areas that are directly supportive of beach usage, such as restrooms, lifeguard towers, and recreational equipment. Any such structures should minimize view blockage and be durable yet attractive;
8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

Section 1709(a) of the certified LCP (zoning ordinance) entitled "Height" requires that:

No building or structure located in the R-A, R-1, R-2, PRD or SP zones shall exceed a height of 35 feet or two stories, whichever is less.

Section 1707(a) of the certified LCP (zoning ordinance) entitled "Maximum Lot Coverage" requires that:

All buildings in the R-A and R-1 zones including accessory buildings and structures shall not cover more than forty (40) percent of the area of the lot.

The certified LCP imposes both numeric and qualitative limitations on the bulk and design of single family residences. The pertinent numeric requirements are that structures may not cover more than 40 percent of the lot; may not exceed 35 feet in height; and may not have more than two stories (plus a basement). In addition to these numeric standards, any new development must be compatible in size and form with the surrounding neighborhood. As explained below, the proposed development seeks to take maximum advantage of the numeric standards in the LCP. The resulting structure, however, is larger than all other houses in the neighborhood and is significantly bulkier than most. The proposed development is therefore incompatible in scale and form with the surrounding neighborhood.

The LCP establishes a lot coverage standard of 40% to address neighborhood compatibility. The City found the project is consistent with this standard as it proposes a 40% lot coverage.

Regarding height, the certified LCP requires that building height be no higher than 35-feet. In 1988, the City amended its zoning code to reduce the height limit in this zone from 35 feet to 27 feet. The City, however, never sought an LCP amendment to lower the 35-foot height limit established in the certified LCP. While most of the roofline is being demolished and replaced within the current height limit (i.e., as part of the approved modifications, a new second story addition over the garage increases the height of the structure near the street from 23 feet to 25 feet in height), the existing and proposed height of the western roofline of the structure is approx. 29 feet high. Although the western roofline exceeds the City's uncertified height limit, it is consistent with the height limit specified in the certified LCP.

Though the proposed development is within the height limit of the certified LCP, it may exceed the LCP's limitation on any residences that exceed two stories. A report prepared by the City indicates that the lowest level of the proposed development satisfies the Uniform Building Code definition of a basement. Commission staff has not independently verified the accuracy of the report, but photographs of the structure in its current condition suggest that more of the lowest level of the structure is above grade than below. Moreover, as viewed from the beach, the structure appears to be three stories tall. As discussed below, however, even if the lowest level did qualify as a basement, the proposed structure is still incompatible with neighborhood character and obstructs public views.

Although the proposed development fits within the numeric limits on lot coverage and height, and is arguably two rather than three stories tall, the resulting structure is incompatible with community character. The LUP requires that all new development shall be compatible in height, scale, color and form with the surrounding neighborhood. 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, prior to the commencement of construction, the subject lot contained a 2,528 sq.ft. single family dwelling. The applicant proposes to reconstruct and enlarge the residence to 3,458 sq.ft. The average size of residences in the project area (Residential Single Family [RS]) zone is 1,861 sq.ft (exhibit 10). The subject 3,458 sq.ft. residence would be the largest structure in the RS zoned properties . As shown on exhibit 10, the sizes of the houses on the three contiguous lots to the south of the project site are 2,405 sq.ft. 2,729 sq.ft. and 2,813 sq.ft., comparable to the original size of the applicant's residence. As proposed, however, the applicant's house would be significantly larger than these neighboring structures, which are themselves significantly larger than the norm in the neighborhood.

The structure as proposed is especially out of scale when viewed from the beach. Because the seaward face of the house is above grade, the house appears to be three stories tall. In addition, the enclosure of the deck and balcony make the house appear especially bulky in comparison to nearby houses.

Because the proposed project would be the largest residence in the area, because it is significantly larger than most other houses in the neighborhood, and because the blocky design emphasizes the bulk of the structure, the Commission finds that the proposed development is incompatible in scale and form with the surrounding neighborhood and therefore inconsistent with the certified LCP.

4. Public Views. The LUP policies relevant to public views along the coast state:
  5. The City shall maintain existing view corridors through public rights-of-way;
  9. Development of sandy beach areas shall be restricted to those areas that are directly supportive of beach usage, such as restrooms, lifeguard towers, and recreational equipment. Any such structures should minimize view blockage and be durable yet attractive;

The "Preserving and Creating Views" section of the certified "Coastal Development Design Standards", an implementing document of the LCP, provides:

1. No fencing, signage, planting, or structures should be placed in a way that will obstruct a view corridor.
2. Proposed new development should consider surrounding public views when designing building height.

The "Preserving the Past" section of the same document provides:

1. Ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

2. Promote harmony in the visual relationship and transitions between new and older buildings.

In this case, an important concern is what adverse visual effect would approval of the proposed structure have on coastal public views. Although the existing revetment obstructs views of the house from the beach immediately in front of the house, from beach level at greater distances from the project site, the project's visual impact significantly alters the appearance of the shoreline because, as proposed, it protrudes the farthest seaward. Thus, the proposed project represents a significant change in height, bulk and seaward encroachment over its existing configuration.

One important public view exists at the Cassidy Street access stairway to the south of the project site. Here, upcoast views to the beach, Oceanside Pier and ocean are significant. From the bluff top elevation of the stairway, outstanding upcoast views of the pier and beach are presently available for those who do not wish to walk down the stairway to the beach. The Commission finds that the proposed project would have adverse impacts on upcoast public views (i.e., the proposed project would extend further seaward than existing development in the immediate area and the scale of the project is too large compared with existing development in the area). Similarly, the Commission finds that for the preceding reasons the proposed project would have adverse impacts on public views from the Whaley Street vertical accessway to the north of the subject site.

5. Stringline. The certified LCP prohibits new development along the ocean from extending further seaward than a "stringline". The goal of limiting new development from extending beyond 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) 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 "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 conversion of the existing deck and balconies to living space on the seaward side of the property would not extend beyond the limits of the

stringline as depicted on the certified Stringline Map. According to the approved plans and a recent survey, the reconstructed residence extends to 79 feet 1 inch from the seaward right of way of South Pacific Street (building length of 77 feet 9 inches plus the front yard setback of 1 foot 4 inches). Based upon the stringline map, the stringline on the project site is measured at approximately 80-feet from the South Pacific Street property line. The stringline represents the maximum limits of structural expansion toward the beach. 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. An existing at grade concrete patio is proposed seaward of the stringline but would have no adverse visual impact.

In interpreting the LCP, the Commission has found in other actions that building out to the stringline is not a development "right" that an applicant is entitled to automatically (A-6-OCN-99-20, Wilt, approved in 10/99). The Commission found that allowing the Wilt project to extend to the 85-foot stringline as identified on the stringline map and approved by the City would cause the project to be out of scale and character with the pattern of development in the area and raised access concerns (i.e., increased the potential for additional shoreline protection which could result in adverse public access impacts). While the two sites are only six lots apart (the subject site is south of the Wilt lot), the stringlines are different based upon the curvature of the shoreline. The Commission required the Wilt project to conform to a 80-foot stringline for decks and balconies as measured from the seaward extent of the S. Pacific right-of-way and also required the front and sides of the residence to extend no further than 73-feet and 71-feet respectively from the right-of-way. The Commission further found that future projects subject to the certified Stringline Map would only be allowed the maximum stringline upon the finding the project is found consistent with all the governing policies of the certified LCP. The proposed structure would extend further seaward than any other structure.

As explained above, the proposed development significantly impairs public views along the coast. Therefore, the stringline provision of the certified LCP does not entitle the applicant to extend the enclosed area of the residence as far seaward as proposed.

In summary, the Commission finds the proposed project, because it is larger in size and bulk than other single-family residences in the area, it is inconsistent with the LCP regarding size and scale (it is 3-stories). Also, because the proposed house will extend further seaward than other homes in the area, its approval would result in adverse impacts on public views up and down coast. Thus, the Commission finds the project cannot be found consistent with the visual resource policies of the certified LCP and thus must be denied.

#### 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 found to be inconsistent with the visual and neighborhood compatibility policies of the Oceanside LCP. The project as designed adversely affects public views as it is out of scale and character with existing neighboring development. Only the "no project" alternative can be found the least environmentally-damaging feasible alternative consistent with the requirements of the Coastal Act to conform to CEQA.

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