

CALIFORNIA COASTAL COMMISSION

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Filed: May 8, 2002
49th Day: June 26, 2002
180th Day: November 4, 2002
Staff: FSY-LB FSY
Staff Report: July 18, 2002
Hearing Date: August 6-9, 2002
Commission Action:

**TU 4e****STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-02-145**RECORD PACKET COPY****APPLICANT:** Pelican Bluffs LLC/Jim Collins**AGENT:** Eric F. Mossman**PROJECT LOCATION:** 524 West Oceanfront, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolish an existing single family dwelling with a 4 car garage that is located on 3 lots. Perform a lot line adjustment to create 2 beach front lots. Construct an approximately 28 foot high, two story, 3,389 square foot single family residence with an attached 424 square foot, two-car garage and two additional uncovered parking spaces at 524 West Oceanfront, one of the new beach front lots. In addition, construct a rear yard patio wall and east property line wall and 35 square feet of 2nd floor deck. Approximately 250 cubic yards of grading will be performed for purposes of recompaction and will be balanced on site.

LOCAL APPROVALS RECEIVED: City of Newport Beach approval-in-concept dated May 7, 2002 and Lot Line Adjustment No. LA2001-008 (PA2001-255).

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project with a special condition requiring a deed restriction against the property, referencing all of the Standard and Special Conditions contained in this staff report. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits: 5-01-401 (Collins); 5-01-400 (Collins); 5-01-396 (Collins & Fluter); 5-01-304 (Caesar); 5-01-298 (Ryan); 5-01-197 (Jacobs & Dolansky); 5-01-186 (Doukoullous); 5-01-084 (Muench); 5-00-492 (Palm); 5-00-420 (Collins); 5-00-285 (Collins); 5-00-262 (Puntoriero); 5-00-261 (Pearson); 5-00-192 (Blumenthal); 5-00-114 (Heuer); 5-00-086 (Wells); 5-00-059 (Danner); 5-99-477 (Watson); 5-97-380 (Hasket); 5-87-813 (Corona); 5-86-676 (Jonbey); City of Newport Beach certified Land Use Plan, and *Wave Runup & Coastal Hazard Study* for 522-524 West Oceanfront, Newport Beach, CA prepared by Skelly Engineering dated May 2002.

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.

III. SPECIAL CONDITIONS

1. Assumption of Risk, Waiver of Liability and Indemnity

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and wave uprush; (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.

2. No Future Shoreline Protective Device

A(1). By acceptance of this Permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-02-145 including, but not limited to, the residence, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2). By acceptance of this Permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the house, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 524 West Oceanfront within the City of Newport Beach, Orange County (Exhibits #1-2). The site is a beachfront lot located between the first public road and the sea, inland of the Oceanfront walkway (a paved beachfront public lateral access way). The project is located within an existing urban residential area, located generally northwest of the Balboa Pier and southeast of the Newport Beach Pier. There is a wide sandy beach (approximately 400-450 feet wide) between the subject property and the mean high tide line. Vertical public access to this beach is available to the west at the adjacent street end of 6th Street.

The applicant is proposing to demolish an existing single family dwelling with a 4 car garage that is located on 3 lots. Perform a lot line adjustment to create 2 beach front lots and construct an approximately 28 foot high, two story, 3,389 square foot single family residence with an attached 424 square foot, two-car garage and two additional uncovered parking spaces at 524 West Oceanfront, one of the new beach front lots (Exhibits #3-6). In addition, construction of a 3 foot high rear yard patio wall and a 6 foot high east property line wall and 35 square feet of 2nd floor deck will take place. Approximately 250 cubic yards of grading will be performed for purposes of recompaction and will be balanced on site.

Coastal Development Permit 5-02-144 (Collins) and 5-02-145 (Collins) are related projects, which authorize demolition of one structure and construction of one new structure on each of the new lots.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future can not be allowed due to the adverse impacts such devices have upon public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property the development has been conditioned to: require an appropriate set-back from the water, for a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite, prohibit construction of protective devices (such as a seawall) in the future, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

