

CALIFORNIA COASTAL COMMISSION

1000 SOUTH CENTRAL COAST AREA
1000 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
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Filed: 12/17/02
49th Day: 2/4/03
Staff: K. Kemmler
Staff Report: 1/14/03
Hearing Date: 2/4-7/03
Commission Action:



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STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Oxnard

LOCAL DECISION: Approval with conditions

APPEAL NO.: A-4-OXN-02-249

APPLICANT: Integral Design Inc., Attn: Walt Philipp

APELLANTS: Commissioners Sara Wan and Shirley Dettloff
Dr. William H. Henry

PROJECT LOCATION: 1211 Capri Way (Oxnard Shores), Oxnard (Ventura County)

APN NO.: 191-0-091-125

PROJECT DESCRIPTION: Construction of a new 2,194 sq. ft., two story addition to an existing 1,607 sq. ft., two story single family residence with detached 672 sq. ft. garage and a net increase of 189 sq. ft. of deck on a 10,000 sq. ft. beachfront parcel.

SUBSTANTIVE FILE DOCUMENTS: City of Oxnard Local Coastal Program; California Coastal Act; California Coastal Commission Regulations; Correspondence dated September 18, 2002; City of Oxnard Staff Report CDP 02-400-3 dated November 7, 2002.

Summary of Staff Recommendation: Substantial Issue Exists

Staff recommends that the Commission determine that **substantial issue exists** with respect to the grounds on which the appeal has been filed. The appeal contends that the approved project is not consistent with policies and provisions of the certified Local Coastal Program with regard to hazards and seaward encroachment, public access and recreation, and visual resources.

I. APPEAL JURISDICTION

The project site is located on a beachfront lot on the seaward side of Capri Way in the Oxnard Shores neighborhood, City of Oxnard, Ventura County. The Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map certified for the City of Oxnard (adopted April 10, 1996) indicates that the subject site is within the appealable jurisdiction as it is located both between the sea and the first public road and within 300 feet of the inland extent of the adjacent beach. As such, the subject project site is located within the appeal jurisdiction of the Commission.

A. APPEAL PROCEDURE

The Coastal Act provides that after certification of an LCP, a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of 10 working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Appeal Area

Development approved by a local government may be appealed to the Commission if it is located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea; within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater; on state tidelands; or along or within 100 feet of natural watercourses, pursuant to Section 30603(a) of the Coastal Act. Any development approved by a coastal county that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone under Section 30603(a)(4) of the Coastal Act. Finally, development that constitutes major public works or major energy facilities may also be appealed to the Commission, as set forth in Section 30603(a)(5) of the Coastal Act.

2. Grounds for Appeal

The grounds for appeal of development approved by a local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth under Division 20 of the Public Resources Code and pursuant to Section 30603(a)(4) of the Coastal Act.

3. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal, unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and

opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only parties qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, parties or their representatives who opposed the application before the local government, and the local government. Testimony from other persons must be submitted in writing. Further, it takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

4. De Novo Permit Hearing

If a substantial issue is found to exist, the Commission will consider the application de novo. The de novo permit may be considered by the Commission at the same time as the substantial issue hearing or at a later time. The applicable standard of review for the Commission to apply in a de novo review of the project is whether the proposed development is in conformity with the certified LCP and the public access and public recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

In this case, if the Commission finds that substantial issue exists, staff will prepare the de novo permit staff report for the Commission's March 2003 meeting.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On November 7, 2002, the City of Oxnard Planning Commission approved a coastal development permit (CDP 02-400-3) for the construction of a new 2,194 sq. ft., two story addition to an existing 1,607 sq. ft., two story single family residence with detached 672 sq. ft. garage and a net increase of 189 sq. ft. of deck on a 10,000 sq. ft. beachfront parcel located at 1211 Capri Way. Commission staff received the Notice of Final Action from the City for the project on December 3, 2002. A 10 working day appeal period was set and notice provided beginning December 4, 2002 and extending to December 17, 2002.

Two appeals of the City's action to the Commission were filed on December 17, 2002, by the appellants, Commission Chair Sara Wan and Commissioner Shirley Dettloff, and Dr. William Henry during the appropriate appeal period (see Exhibits 2 & 3). Commission staff notified the City and the applicant of the appeal and requested that the City provide its administrative record for the permit. A portion of the administrative record was received from the City on December 31, 2002 and the remaining portion was transmitted to Staff on January 9, 2003.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-OXN-02-249 raises NO substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act.*

Staff Recommendation:

Staff recommends a NO vote. Failure of this motion will result in a de novo hearing on the proposed development and adoption of the following resolution and findings. Passage of this motion will result in a finding of no substantial issue and the local actions will become final and

effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue:

The Commission hereby finds that Appeal A-4-OXN-02-249 presents a **substantial issue** with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

IV. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

As stated previously, on November 7, 2002 the City of Oxnard Planning Commission approved a coastal development permit (CDP 02-400-3) for the construction of a new 2,194 sq. ft., two story addition to an existing 1,607 sq. ft., two story single family residence with detached 672 sq. ft. garage and a net increase of 189 sq. ft. of deck on a 10,000 sq. ft. beachfront parcel located at 1211 Capri Way (Exhibit 1). The appellants appealed the Planning Commission's decision to the Coastal Commission on December 17, 2002.

The subject site is a beachfront parcel located along Capri Way, a public road in the Oxnard Shores neighborhood of Oxnard (Exhibit 5). The site is a developed, 10,000 sq. ft. lot that is approximately 40 feet wide on the seaward (west) side and a maximum of 250 feet deep, which extends out into the ocean. The subject site is an infill site within the existing residential beach community, and is bordered by single-family residences located to the north and south with one vacant lot between the subject lot and the nearest developed lot to the south (Exhibit 4). The nearest vertical public access to the beach is located approximately 100 feet to the north of the subject site. There is existing lateral public access adjacent to the site to the north and large sections of public access and recreation area exist to the north and south along this stretch of beach (see page 16 of Exhibit 1).

Commission staff, in previous correspondence with the City expressed concerns with the proposed development and its consistency with the policies of the LCP and Coastal Act public access policies (see page 45 of Exhibit 1). In approving the proposed development, the City staff and Planning Commission noted the letter from Commission staff and required a portion of land on the subject property to be dedicated to the City for public access and recreational use, and thus, found that the proposed development would have no impact on public access.

B. APPELLANT'S CONTENTIONS

The appeal filed with the Commission by Commissioners Sara Wan and Shirley Dettloff are attached as Exhibit 2. The appeal contends that the approved project is not consistent with the policies of the certified LCP and the Coastal Act with regard to hazards and seaward encroachment, public access and recreation, and visual resources. In addition, an appeal was filed by a neighbor, Dr. William Henry, which is attached as Exhibit 3. Dr. Henry's appeal

asserts that the project is inconsistent with LCP and Coastal Act policies with regards to hazards, seaward encroachment and public access.

C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act.

Based on the findings presented below, the Commission finds that substantial issue exists with respect to the grounds on which the appeal has been filed. The approved project is inconsistent with policies of the City of Oxnard LCP for the specific reasons discussed below.

1. HAZARDS AND SEAWARD ENCROACHMENT

The City of Oxnard Coastal Land Use Plan (LUP) incorporates Section 30253 of the Coastal Act, which states that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Local Coastal Policies 39 and 40 state:

39. *All applications for grading and building permits and subdivisions shall be reviewed for threats from hazards such as seismic activity, liquefaction, tsunami run-up, seiche, beach erosion, flood, storm wave run-up, and expansive soils. Geologic reports may be required in known hazard areas. Appropriate mitigation measures shall be applied to minimize threat from any hazards.*
40.
 - a. *If new development is located within the 100-year flood and storm wave run-up area as designated by the Department of Housing and Urban Development and on the land use map, it shall be designed and engineered to withstand the effects of the flooding and wave run-up without the use of seaways or other protective structures...*
 - b. *Any development located on the beach shall be designed to assure lateral beach access.*

Further, the City's LUP states:

Beach erosion, storm wave run-up and flooding are problems within much of the City's coastal zone. Erosion and storm wave run-up threaten the 27 homes located west of Mandalay Beach Road in Oxnard Shores. Adjacent vacant parcels are also eroding. The parcels are within the 100-year flood line designated by the U.S. Department of Housing and Urban Development.

The proposed project site is located in the Oxnard Shores Neighborhood in the City of Oxnard. The project proposes construction of a 2,194 sq. ft., two story addition with a first floor deck and a second floor balcony to an existing 1,607 sq. ft., two story single family residence on a beachfront parcel. The proposed addition would encroach fifty feet further seaward than the existing residence onto the sandy beach and extend thirty-eight feet further seaward than the existing residence on the adjacent lot on a beach that routinely experiences significant erosion from storm wave scour. Section 30253 of the Coastal Act requires that development shall minimize risks to life and property in areas of high flood hazard. In this case the proposed structural addition represents a significant seaward extension of development and will result in the structure being subjected to more frequent and vigorous storm waves and associated beach erosion. This seaward encroachment exposes the development to increased damage risk from wave action. Siting new development significantly seaward on a beach subject to scour from storm waves does not minimize risks to property as is required pursuant to Section 30253 of the Coastal Act and the local coastal policies of the Oxnard LCP.

In addition, sea level has been rising slightly for many years. The historic rate of sea level rise has been 1.8 mm/yr. or about 7 inches per century¹. Sea level rise is expected to increase by 8 to 12 inches in the 21st century². There is a growing body of evidence that there has been a slight increase in global temperature and that an accelerated rate of sea level rise can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion in several ways and an increase in the average sea level will exacerbate shoreline erosion.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, such as the subject beach, with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as single family residences, bulkheads, revetments, seawalls, pilings, an increase in sea level will increase the extent and frequency of wave action and future inundation of the structure. More of the structure will be inundated or underwater than that which is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, ocean bottom depth controls nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage.³ So, combined with a physical increase in water elevation, a small rise in sea level can expose areas that are already exposed to wave attack to more frequent wave attack with higher wave forces.

¹ Hicks, Steacy D. and Leonard E. Hickman, Jr. (1988) United States Sea Level Variations Through 1986. Shore and Beach, Vol. 56, no. 3, 3 - 7.

² Field et. al., Union of Concerned Scientists and the Ecological Society of America (November 1999) Confronting Climate Change in California, www.ucsusa.org.

³ Dean, Robert G. and Robert Dalrymple (1984) Water Wave Mechanics for Engineers and Scientists, Prentice-Hall, Inc. New Jersey.

Therefore, if new development along the shoreline is to be found consistent with the LCP, the most landward location must be explored to minimize wave attack with higher wave forces as the level of the sea rises over time. Shoreline structures must also be located as far landward as feasible to protect public access along the beach as discussed further below. In this case the proposed structure is not sited as far landward as is feasible to minimize the risks from storm wave action and beach erosion as is required pursuant to Section 30253 of the Coastal Act and the Oxnard LCP.

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access and minimize wave hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views, the Commission has, in past permit actions, developed the "stringline" policy. A stringline policy has been established in many coastal communities in the area, including Carpinteria and Malibu. While the City of Oxnard does not have an established stringline policy in the LCP, the City has applied the concept to beachfront development in past permit actions (PZ 01-6-80). As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks, or other appurtenant structures, to a similar line drawn between the nearest corners of the adjacent decks, or other appurtenant structures. This policy has been applied to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. The proposed development extends well beyond the stringline in this case (see Exhibit 4). If a stringline were drawn from the nearest corners of the two adjacent properties, the development line would extend to 120 feet to the north and 140 feet to the south, or an average of 130 feet from Capri Way. The proposed addition will extend the structure to 150 feet from Capri Way (equal to the existing structure adjacent to the vacant parcel to the south as shown on Exhibit 6). In addition, the resulting development would have implications for potential proposed seaward development on other lots of similar depth along this stretch of beach.

The neighborhood has been developed with numerous single family residences located to the east and west of the subject site. As discussed in the City's staff report, a settlement agreement that occurred in 1988 regarding the lots in the Oxnard Shores area required a reconfiguration of most of the lots in the area, which created a boundary line establishing beachfront parcels and tideland parcels. The tideland parcels were dedicated to the public. The newly formed beachfront lots were limited in depth toward the ocean resulting in a defined development boundary. The beachfront lots that were not subject to the settlement agreement extend farther toward the ocean, some to the mean high tide line. The subject parcel is one such lot and extends into the water, 250 feet in depth. There are several more lots in the area that extend to the water. Seaward encroachment of residential development on such lots poses a significant threat to coastal resources if no policy is in place to limit seaward development. The proposed development is located on a beachfront lot and will be subject to some inherent potential hazards. Oxnard Shores is a beach that has displayed significant oscillation and suffered severe beach erosion during the El Niño events in the late 1970s and early 1980s, which resulted in wave uprush all the way up onto Capri Way, the eastern border of the subject site. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. The proposed development will extend the residence fifty feet further seaward and will serve to enhance the risk posed by the hazards of oceanfront development. In addition, the project creates cumulative impacts by establishing a precedent for future development on similar unrestricted lots to extend further seaward to this

development line into an area subject to frequent wave action. Therefore, for those reasons described, the proposed project does not conform to the hazards policies in the City's LCP.

2. PUBLIC ACCESS AND RECREATION

The City of Oxnard Coastal LUP incorporates Sections 30210 and 30211 of the Coastal Act concerning public access and recreation. Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 states:

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

The City's Coastal Zoning Ordinance (CZO) Policy 2 of Section 37-3.9.7 (Lateral Access) states that:

Lateral accessways shall be located on all waterfront land to provide continuous and unimpeded lateral access along the entire reach of the sandy beach area or other usable recreational shoreline.

Further, the City's LUP states:

Portions of the beachfront property [in the Oxnard Shores Neighborhood] are subject to periodic flooding. This flooding primarily occurs in response to major offshore storms, which would limit access at those times.

There are 124 subdivided oceanfront lots from Fifth Street to Amalfi Way. Twenty-seven of these are developed. Most of the units are built on pilings or have heavy rock revetments for protection from wave run-up and beach erosion. Clearly, these few scattered dwellings do not block access to the beach. If full buildout of all 124 lots occurs, access would be restricted ... Lateral access to the beach is presently interrupted at high tides by the existing revetments.

The City's approval of the project includes a condition requiring the dedication of a seaward portion of the subject lot to the City for public access and recreational use. However, as cited above, the City's LUP documents that lateral access along the beach is inhibited during high tides due to the location of residential development and associated shoreline protective devices. The seaward extension of the proposed addition would encroach on a significant portion of sandy beach and would impact lateral access during similar conditions as those described in the LUP. Public access currently exists adjacent to the property extending 38 feet further landward than would exist on the subject site as a result of the proposed development and imposed dedication. The significant seaward encroachment of the proposed development in relation to sea level rise, as described in detail in the section above, further enhances potential for future impacts to public access given this beach will narrow in the future due to sea level rise. Additionally, this development proposal contains implications for other future development

proposals on lots similar to the subject lot, which extend out to the ocean with no established development boundary, thus, the proposed project will set a precedent for future proposals to extend development seaward out to this development line, which does not minimize impacts on public access and recreation.

Furthermore, the existing residence does not conform to current standards for residential beachfront development in relation to hazards. The existing structure is on pilings, but is not at a design wave height elevation, which would protect the structure from wave runup and overtopping. City staff has stated that the City's zoning code does not require the existing non-conforming structure to comply with current standards. The new addition must comply with current standards, however, it is likely that in the future the non-conforming portion of the structure will be exposed to damage from wave action necessitating shoreline protection. The Commission notes that it is likely that such protection would have to be placed seaward of the new addition rather than the non-conforming portion of the structure, which would result in adverse impacts to the sandy beach area, such as wave scour and erosion. Scour and erosion impacts would alter the beach profile reducing sandy beach area available to the public, and thus, would adversely impact lateral access along the beach. Therefore, siting new development as far landward as feasible is essential in order to minimize adverse impacts to public access. In this case, it would be appropriate to use a stringline or alternate method of limiting seaward development onto sandy beach area. Staff notes that such an analysis was not conducted by the City staff in its review and approval of the project.

Therefore, for the reasons cited the project would have adverse individual and cumulative impacts on public access and recreation, the project as approved does not conform to the access policies of the City's LCP.

3. VISUAL RESOURCES

The City of Oxnard Coastal LUP incorporates Section 30251 of the Coastal Act, which states that:

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 land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Local Coastal Policy 37 states:

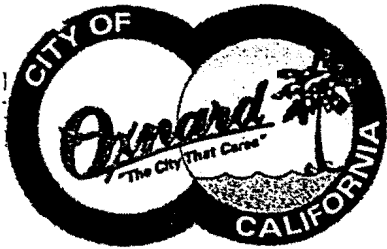
All new development in the coastal zone shall be designed to minimize impacts on the visual resources of the area.

As noted, the proposed addition would encroach fifty feet further seaward than the existing residence onto the sandy beach and extend thirty-eight feet further seaward than the existing residence on the adjacent lot. The substantial seaward extension of this structure and future structures to this development line onto sandy beach creates an adverse visual impact by impeding views along the shoreline. Thus, the significant seaward encroachment of this project

will both individually and cumulatively adversely impact public views along this beach, which is not consistent with visual resource policies of the City's LCP.

D. CONCLUSION

For the reasons discussed above, substantial issue is found with respect to the consistency of the approved development regarding hazards and seaward encroachment, visual resources and public access policies of the City's certified LCP and public access and recreation policies of the Coastal Act. Therefore, the Commission finds that the appeal filed by Commissioners Sara Wan and Shirley Dettloff, as well as the one filed by Dr. Henry, raise substantial issue as to the City's application of the policies of the LCP in approving the proposed development.



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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Planning and Environmental Services

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission
FROM: Juan Martinez, Associate Planner
DATE: November 7, 2002
SUBJECT: Planning and Zoning Permit No. 02-400-3 (Coastal Development Permit)

1. **Recommendation:** That the Planning Commission adopt a resolution approving Planning and Zoning Permit No. 02-400-3 (Coastal Development Permit), subject to certain findings and conditions.
2. **Project Description and Applicant:** The proposed project is a request to add 2,194 square feet to an existing 1,085 square foot beachfront home located at 1211 Capri Way within the Oxnard Shores Neighborhood. Filed by Walt Philipp, Integral Design, Inc., 950 Country Square Dr., Suite No. 116, Ventura, CA 93003.
3. **Existing Land Use:** The subject beachfront parcel is 9,996.8 square feet and contains an existing 1,085 square foot two-story house with a two-car garage.
4. **General Plan Policies and Land Use Designation Conformance:** The project site's Coastal Beachfront Residential (RBF) Zone is consistent with the Coastal General Plan Land Use Designation of Residential.
5. **Environmental Determination:** The Planning and Environmental Services Division has determined that the project is among the classes of projects listed in Article 19 (commencing with Section 15300) of Division 6 of Title 14 of the California Code of Regulations as categorically exempt from the requirements for the preparation of environmental documents imposed by the California Environmental Quality Act.

6. **Surrounding Zoning and Land Uses:**

Location	Zoning	Land Use
North	RBF	Single Family Residence
South	RBF	Single Family Residence
East	RB1	Single Family P
West	None	Pacific O

7. **Analysis:**

- a. *General Discussion:* The proposed project includes a 2,194 square foot addition to an existing 1,085 square foot two-story beachfront home. When the existing house was built (in the mid-60's) pilings were not required. The addition, however, will be constructed on pilings as required by the zone. There will also be a 9-foot deck to serve the first floor and a 6-foot balcony that will extend out from the second floor along the ocean side.

Currently there are two types of beachfront lots, those created as a result of the Oxnard Shores litigation settlement agreement and those developed prior to the settlement agreement. Pre-settlement lots typically extend further seaward and in some cases actually extend into the ocean. This parcel is approximately 250 feet deep. It is not a lot that was subject to the settlement agreement. (See Exhibit G) Settlement agreement lots located north of the subject site have an approximate depth of 120 feet.

The settlement agreement created a boundary line establishing "beach property" and "tidelands parcels." The final map for Tract 4380 divided the "beach property" into 73 private lots, two large public beach areas and nine access areas. As part of the settlement agreement, the "tidelands parcels" remained in state ownership and were subsequently leased to the City in October of 1989. The pre-settlements lots require side yard setbacks of 5 feet and limit building heights to two stories. Post settlement lots are narrower and allow zero lot line development on one side property line and along the beach, and allow for building heights up to three stories (see attached map). These development standards are outlined in the City of Oxnard Coastal Zoning Ordinance.

- b. *Zoning Compliance:* The proposed addition to the single-family residence is located on Lot No. 243 of Tract 1277, which is 40 feet wide by approximately 250 feet deep. The proposed addition complies with the standards of the RBF zone, which states that lots having a greater width than 33 feet may be two stories not to exceed 25 feet to the highest peak of the roof. Side yard setbacks proposed are 5 feet on the north and 5 feet on the south, with a deck extending to the south property line. The addition will extend the residence an additional 50 feet to the west.

8. **Development Advisory Committee (DAC) Recommendation:** The DAC reviewed and provided comments in May 8, 2002. The recommended project conditions address DAC concerns.

9. **Issues for Commission Consideration:** Staff has received letters from adjacent homeowners objecting to the proposed project. Copies of the letters have been provided as Exhibit F. Because the subject parcel is not a part of those lots affected by the settlement agreement, development standards contained in the RBF zone apply. This means that under the ordinance construction can occur farther toward the beach than the settlement lots are allowed to build. Staff has recommended a condition that requires the owner to dedicate to

the City as a public easement the undeveloped portion of land between the proposed structure and the parcel's west property line (between the home and the ocean). The applicant has indicated a willingness to agree to this condition.


The Planning Commission's decision on this coastal development permit is appealable to the City Council and ultimately to the Coastal Commission pursuant to the City's Local Coastal Plan and the California Coastal Act. The City received a letter from Kara Kemmler, Coastal Commission staff, expressing their opinion that approval of this project is in conflict with the City's Local Coastal Plan and the Coastal Act, and citing several sections of the Act (see attached Secs. 30210, 30211, 30251 and 30253). These sections pertain to public access, both physical and visual, and regulate the ability to block such access. It is City staff's opinion that this development does not interfere with public access to the beach, either physically or visually, and that these sections are not violated by the approval of this permit.

This proposed addition extends toward the beach 38 feet further than the home to the north. However, there are homes further north and south that extend as far as this proposed residence will (See Aerial Image-Exhibit G). Given the fact that this lot extends to the water, it is reasonable to allow the owner to expand as far as other houses along the beach. Additionally, the owner has agreed to a permanent easement that will insure that no further encroachment beachward will occur.

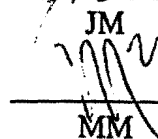
10. **Special Recommended Conditions:** A condition is recommended that requires the owner to dedicate an easement to the City for the portion of the property that begins at the westerly building line and extends toward the westerly property line of the subject parcel.

11. **Attachments:**
 - A. Resolution
 - B. Vicinity Map
 - C. Zone Map
 - D. General Land Use Map
 - E. Development Project Plans
 - F. Protest Letters
 - G. Aerial Image Layout
 - H. Coastal Commission Letter
 - I. Coastal Act Sections

Prepared by:


JM

Approved by:


MM

ATTACHMENT A

**Planning and Zoning
Resolution**

RESOLUTION NO. PZ 02-400-3

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 02-400-3 (COASTAL DEVELOPMENT PERMIT), SUBJECT TO CERTAIN CONDITIONS TO ALLOW A 2,194 SQUARE FOOT TWO STORY ADDITION TO AN EXISTING 1,085 SQUARE FOOT BEACHFRONT HOME, LOCATED AT 1211 CAPRI WAY WITHIN THE OXNARD SHORES NEIGHBORHOOD. FILED BY WALT PHILIPP, INTEGRAL DESIGN, INC. 950 COUNTRY SQUARE DRIVE SUITE #116, VENTURA, CA 93003.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for a Coastal Development Permit to allow a 2,194 square foot two story addition to an existing 1,085 square foot beachfront home filed by Walt Philipp, Integral Design, Inc., in accordance with Section 37-2.16.3 (1) of the Oxnard City Code; and

WHEREAS, the project is among the classes of projects listed in Article 19 (commencing with Section 15300) of Division 6 of Title 14 of the California Code of Regulations as categorically exempt from the requirements for the preparation of environmental documents imposed by the California Environmental Quality Act; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the following circumstances exist:

1. The proposed use is conditionally permitted within the subject sub-zone and complies with all of the applicable provisions of Chapter 37 of the Oxnard City Code.
2. The proposed use would not impair the integrity and character of the sub-zone in which the proposed use is to be located.
3. The subject site, in terms of location and intensity of use, would be physically suitable and would protect and maintain adjacent coastal resources for the land use being proposed.
4. The proposed use would be compatible with the land uses presently on the subject property.
5. The proposed use would be compatible with existing and future land uses within the sub-zone and the general area in which the proposed use would be located.
6. There are adequate public services for the proposed use, including, but not limited to, fire and police protection, water, sanitation and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
7. The proposed use will provide a type and level of public access consistent with the access policies and standards of the certified Oxnard Coastal Land Use Plan.

8. The proposed use would be appropriate in light of an established need, based upon the underlying goals and objectives of specific Oxnard Coastal Land Use Plan policies, applicable to the proposed location.
9. The proposed use would be consistent with all of the applicable policies of the certified Oxnard Coastal Land Use Plan.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves this permit, subject to the following conditions. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 37-5.4.9 of the Oxnard City Code.

This coastal development permit is approved subject to the following findings and conditions:

Note: The abbreviations listed below indicate which City group or program has responsibility to insure compliance with these conditions. The first agency listed has responsibility at plan check, the second at inspection and the third at final inspection, prior to certificate of occupancy, or at a later date, as specified in the condition.

Agencies

CA	City Attorney	PL	Planning
DS	Dev. Service/Eng Dev./Inspectors	TR	Traffic
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Prevention Bureau/Dept
PK	Parks Division	BI	Building Inspectors

If more than one agency is listed, the first department or division listed must check the plans or inspect the project before the second may approve compliance with the condition.

PLANNING STANDARD CONDITIONS

1. The permit is granted for the property as described in the application and shall not be transferable from one parcel to another. (PL)
2. This permit is granted for the plans dated September 19, 2002, ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls.

A major modification shall be required for substantial changes or increases in such items. (PL, G-2)

3. This permit shall become null and void within 24 months from the date of its issuance, unless the proposed development or use has been diligently pursued. The issuance of a grading, foundation, or building permit for structural construction shall be a minimum requirement for evidence of diligent pursuit. (PL)
4. All conditions of this permit including any off-site and on-site improvements, including building, paving, and landscape construction, shall be completed prior to occupancy except as may be permitted by the Community Development Director in consultation with other affected departments. In the event early occupancy is permitted, Developer shall provide security or agreements to ensure full completion of the project. (DS)
5. The development or use by the Developer of any activity or structure authorized by this permit shall constitute acceptance of all of the conditions and obligations imposed by the City on this permit. The Developer by said acceptance waives any challenge as to the validity of these conditions. (CA)
6. Developer agrees, as a condition of approval of this resolution and at applicant/developer's own expense, to indemnify and defend the City and its agents, officers and employees from and against any claim, action or proceeding to attack, set aside, void or annul the approval of this resolution or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution which were part of the approval process. (CA)
7. Developer's acceptance of this resolution or commencement of construction or operations under this resolution shall be deemed to be acceptance of all conditions thereof. (CA)
8. Any covenants, conditions, and restrictions (CC&R's) applicable to the subject property shall be consistent with the terms of this permit and the Oxnard City Code. Where a conflict exists between the CC&R's and City regulations, the City regulations shall prevail. (CA)
9. The Developer shall record with the Ventura County Recorder a "**Notice of Land Use Restrictions and Conditions**" in a form acceptable to the City Attorney's Office and Community Development Department. A copy of the recorded document shall be submitted to the Community Development Department prior to issuance of building permits or initiation of use. (PL)
10. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit. (PL/DS)

11. The location and elevations of all buildings and structures shall substantially conform to the plans submitted with the application unless amended specifically by a condition of this resolution, by a major modification, or a minor modification. (PL)
12. The final building plans submitted with the building permit application shall clearly indicate all building materials and colors to be used in construction. (PL/B)
13. Prior to the issuance of a building permit, a reproduction of all conditions of this permit approval as adopted by resolution of the Planning Commission shall be part of, and incorporated into, all sets of the construction documents and specifications for this project. A reproduction of all conditions shall be included on each set of the job/construction documents. (PL)
14. Prior to issuance of building permits, Developer shall provide to the Planning Division for file exhibits color photographic reductions (8-1/2" by 11" size) of the full-size approved colored elevations and any other colored exhibit approved by the Planning Commission. The full-size colored elevations may be retained by the applicant after the reduced exhibits are submitted. (PL)
15. Before the City issues building permits, Developer shall provide to the Planning and Environmental Services Manager a disk in DWG format of a 100-foot scale site plan of the project as approved. (PL, *PL-6*)
16. Developer shall recess or screen roof heating and cooling systems and other exterior mechanical equipment from adjoining property and public streets, as required by this permit. Plumbing vents, ducts and other appurtenances protruding from the roof of structures shall be placed so that they will not be visible from the front of the property or other major public vantage points. Developer shall include a note on the construction plumbing drawings of exterior elevations to indicate to contractors that roof features shall be grouped and located in the described manner. Roof vents shall be shown on construction drawings and painted to match roof material color. (PL/B, *PL-15*)
17. All utility meter panels shall be recessed into the building and screened by decorative doors or other building elements, subject to approval of the Director of Development Services and the appropriate utility company. (PL)
18. Developer shall provide for dust control at all times during site preparation and construction activities at the direction of the Public Works Director or Building Inspector. (B, DS)
19. Because of water limitations placed upon the City by its water providers, approval of this permit does not guarantee that the City will issue building permits. Issuance of building permits may be delayed as a result of implementation of a water conservation or allocation plan. (PL, *PL-25*)

20. Storage areas for individual trash enclosures shall be provided within garage, patio, yard or storage area. (DS)
21. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING SPECIAL CONDITIONS

22. Developer shall construct the improvements on driven pilings in accordance with Section 37-2.16.5 of the City Code. (PL/DS)
23. Developer shall provide breakaway panels painted to match the building that cover approximately half the area between the first floor of the structure and the sand below. (PL)
24. Building heights shall be measured from the lowest shore parallel horizontal structural member to the highest peak of the roof. The minimum elevation of the bottom of the lowest structural member, with a shore parallel component greater than three feet in length, shall be +14.0 feet NGVD (National Geodetic Vertical Datum), or one foot above the calculated maximum wave run-up or wave crest elevation, whichever produces the highest elevation. The maximum elevation of the bottom of the lowest shore parallel structural member shall be +17 feet NGVD, unless a coastal engineering report substantiates the need for a higher elevation based on wave run-up and wave force rationale. (PL/BI)
25. All roof and building drainpipes and downspouts shall be installed inside the building elements. No downspouts shall be visible on any exterior building elevations. (PL/B)
26. Developer shall not obstruct automobiles and pedestrians on Capri Way during construction and maintenance activities.
27. Developer shall be responsible for maintaining the construction site free of litter and the accumulation of construction debris.
28. Before the issuance of building permits, Developer shall execute and deliver to the City Attorney an Easement Deed, in a form satisfactory to the City Attorney, unconditionally granting to the City of Oxnard an easement to use and maintain the westerly 91 feet 6 inches of the subject property as a public lateral accessway to the Pacific Ocean. Building permits shall not issue until the Mayor signs a Certificate of Acceptance of the Easement Deed and both such documents are recorded in the office of the Ventura County Recorder.

DEVELOPMENT SERVICES STANDARD CONDITIONS

29. Developer shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at the time the City issues building permits. (DS, DS-1)
30. Developer shall protect building pads from inundation during a 100-year storm. (DS, DS-5)
31. Developer shall remove and replace all improvements that are damaged during construction. (DS, DS-6)
32. Before connecting the project to existing sewer and water service laterals, Developer shall arrange for City staff to inspect such facilities. Developer shall make such repairs to such facilities as City staff determines to be necessary. Developer shall bring all existing water services into compliance with City standards. (DS, DS-7)
33. Curb cut widths and design shall conform to City ordinances, standards, and policies in effect at the time the City issues an encroachment permit. (DS, DS-9)
34. The conditions of this resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS, DS-21)
35. Developer shall pay the cost of all inspections of on-site and off-site improvements. (DS, DS-22)
36. Before beginning construction, Developer shall designate in writing an authorized agent who shall have complete authority to represent and to act for Developer. The authorized agent shall be present at the work site whenever work is in progress. Developer or the authorized agent shall make arrangements acceptable to the City for any emergency work. When City gives orders to the authorized agent to do work required for the convenience and safety of the general public because of inclement weather or any other cause, and the orders are not immediately acted upon by the authorized agent, City may do or have such work done by others at Developer's expense. (DS, DS-24)
37. Developer shall comply with all applicable requirements and laws of the State of California and any other governmental entity with jurisdiction over the project. (DS, DS-25)
38. Developer shall dispose of sewage and solid waste from the project by the City's wastewater and solid waste systems. (DS, DS-38)

39. Before the City issues building permits, Developer shall present to the City Engineer a "Proof of Payment - Authorization for Building Permits" form issued by the Calleguas Municipal Water District. (DS, DS-44)
40. Developer shall submit a landscape irrigation plan prepared by a licensed professional, showing proper water meter size, backflow prevention devices, and cross-connection control. (DS, DS-59)
41. Developer shall be responsible for and bear the cost of the replacement of all existing survey monumentation (e.g., property corners) disturbed or destroyed during construction, and shall file appropriate records with the Ventura County Surveyor's Office. (DS, DS-64)
42. Developer shall provide a 105-gallon refuse container for each project property. Developer may not store refuse containers in the public right-of-way. (DS, DS-67)

DEVELOPMENT SERVICES SPECIAL CONDITIONS

43. The Developer shall take sufficient precautions during construction to prevent ocean wave run-up from passing through the project site and into the street right-of-way. Failure to take adequate precautions will result in Developer being assessed street cleanup costs. (DS)
44. Developer shall repair and/or replace any existing broken or damaged sidewalk, curb gutter or asphalt paving adjacent to property as directed by the Construction Services Inspector. (DS)
45. Developer shall pay to the City \$1.1476 per square foot of new floor area as payment for this project's share of the cost of placing utility lines in the Oxnard Shores Zone underground plus \$0.1726 per square foot of new floor area as payment for the Citywide utility undergrounding. This fee shall be paid prior the issuance of a building permit. (PL/DS)
46. The Developer's architect and engineer shall provide written certification that the structure complies with all FEMA requirements. This shall include the filing of a FEMA "elevation certificate." (DS)
47. Developer shall construct a level concrete pad for storage of two refuse containers out of view of the public street. Developer shall provide a paved path from the storage location to the street curb. All gates or doors along the path shall be constructed with a minimum of 36 inches of clear space to allow passage of the City issued containers. (DS)

FIRE SAFETY STANDARD CONDITIONS

48. All roof covering materials on the project property shall be of non-combustible or fire

retardant materials approved by the Fire Chief and in compliance with the City Code.
(FD, F-2)

49. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, F-5)
50. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, F-6)
51. Developer shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (FD, F-12)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 7^h day of November 2002, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

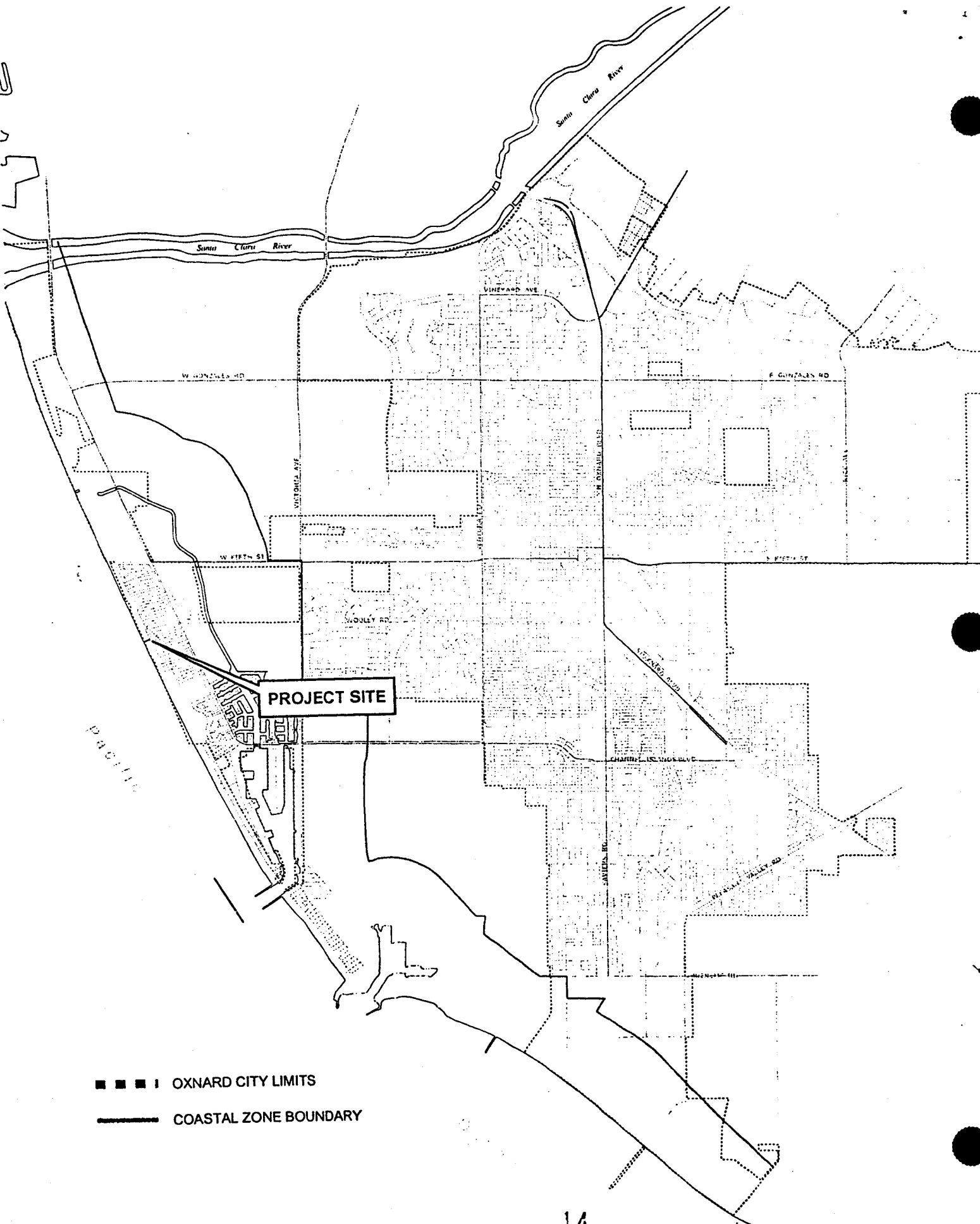
ABSENT: Commissioners:

Albert G. Duff, Chairman

ATTEST: _____
Marilyn Miller, Secretary

ATTACHMENT B

Vicinity Map

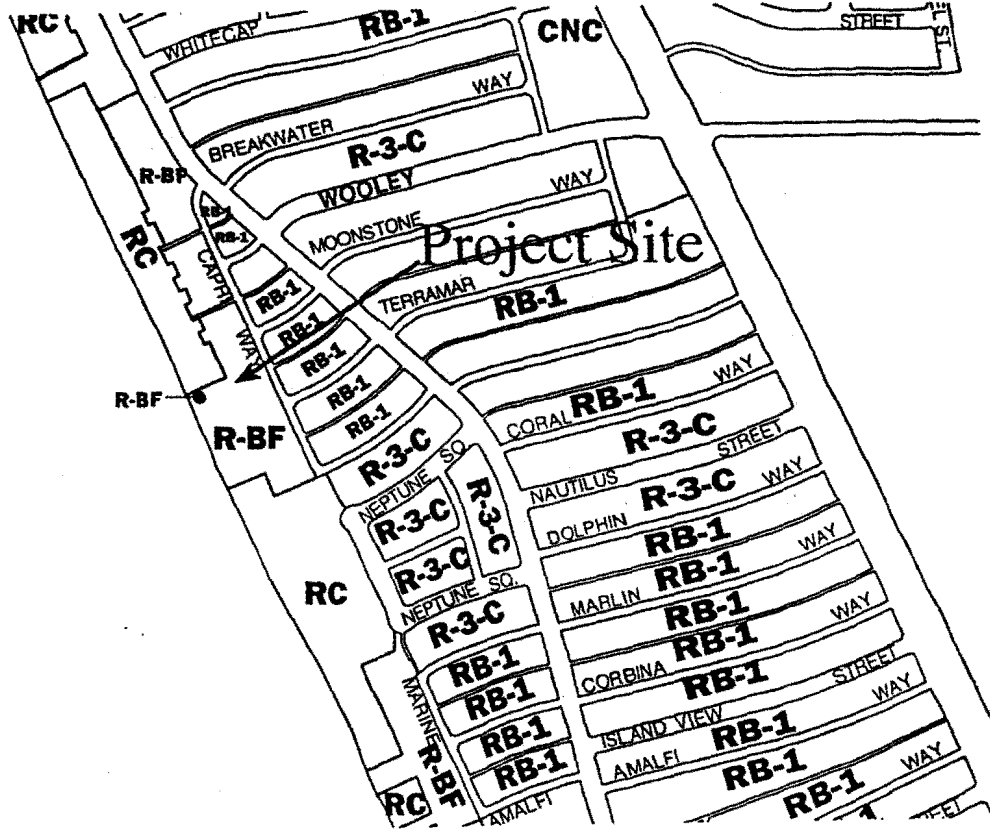


■ ■ ■ | OXNARD CITY LIMITS
— COASTAL ZONE BOUNDARY



ATTACHMENT C

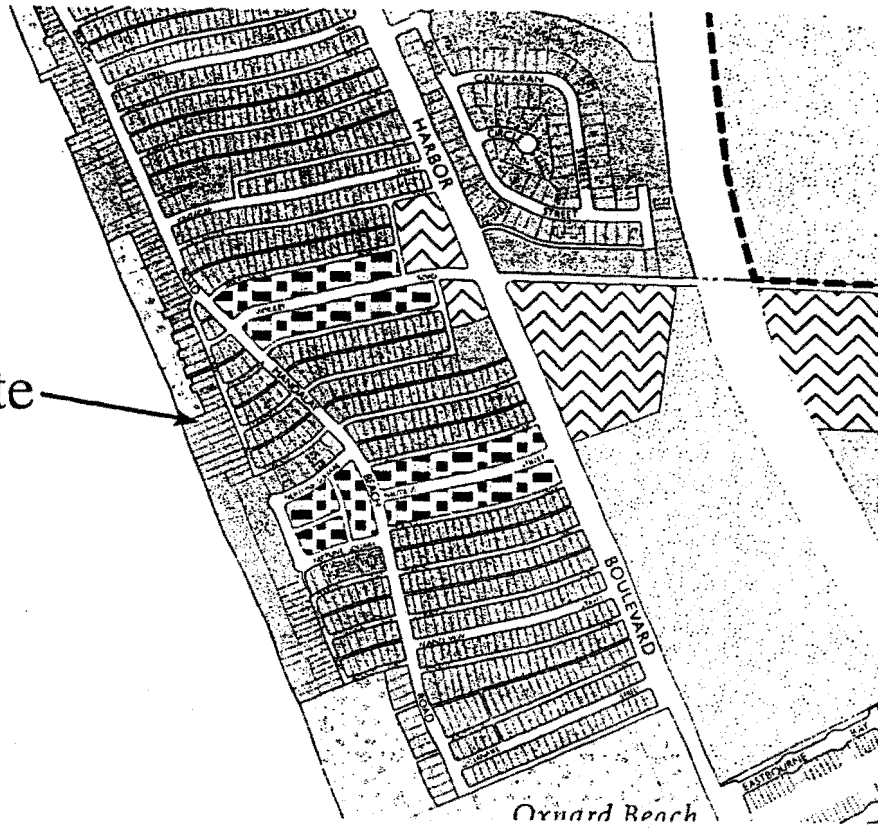
Zone Map








ATTACHMENT D

General Plan Map

Project Site



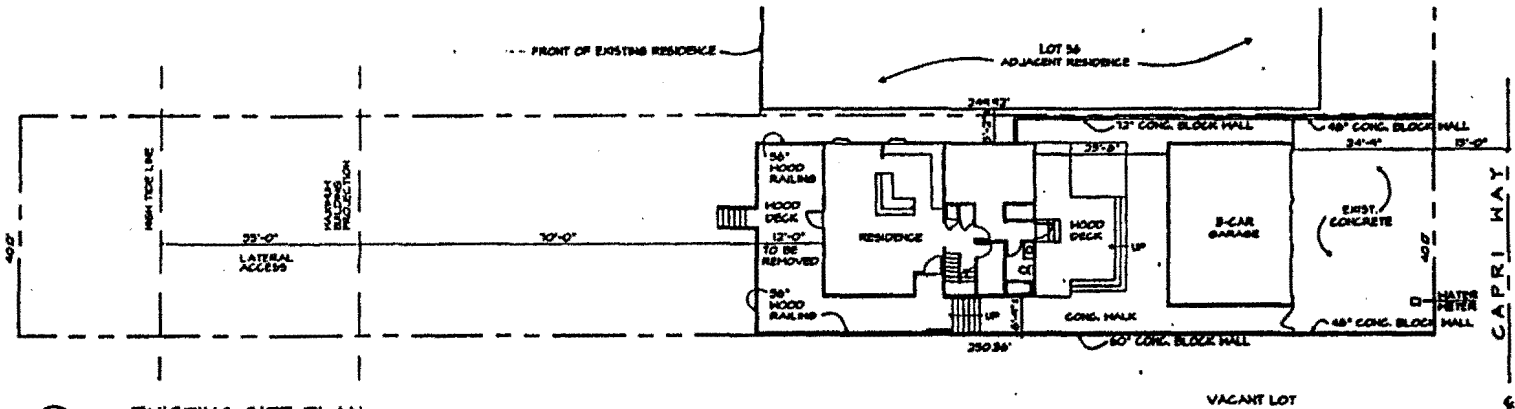
2020 General Plan Designations

-  Low Medium: 8-12 D.U./Ac.
-  High: 19-30 D.U./Ac.
-  Visitor Serving Commercial
-  Miscellaneous Open Space
-  Parks



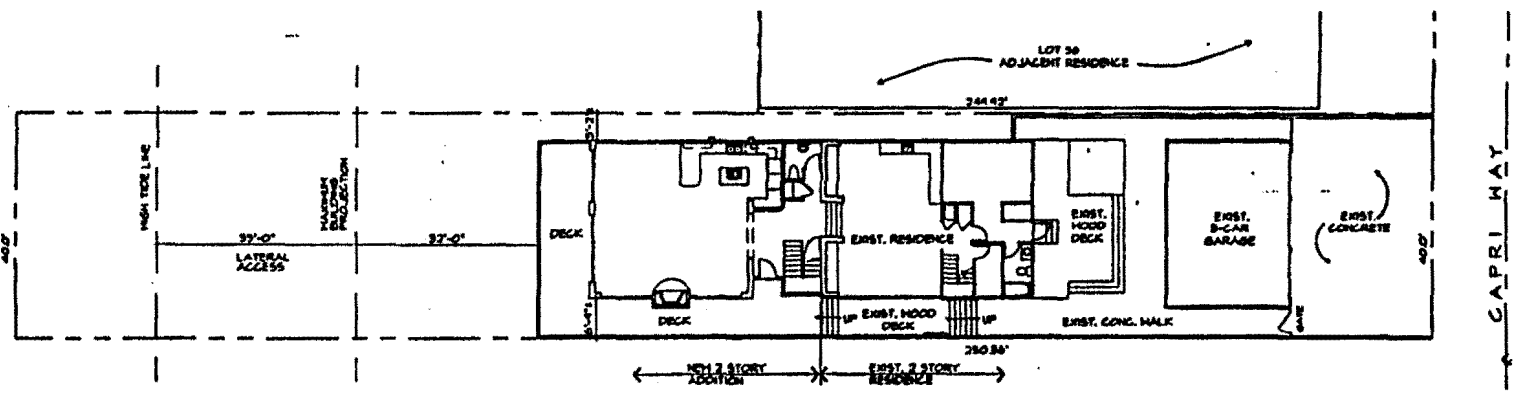
ATTACHMENT E

Development Plans



EXISTING SITE PLAN

1" = 10'-0"

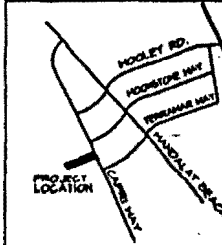


PROPOSED SITE PLAN

1" = 10'-0"



VICINITY MAP



AREAS:

EXISTING RESIDENCE		NEW ADDITION		TOTAL (NEW + EXIST.)
FIRST FLOOR	1055 S.F.	FIRST FLOOR	1044 S.F.	
SECOND FLOOR	552 S.F.	SECOND FLOOR	1044 S.F.	1596 S.F.
TOTAL AREA	1607 S.F.	TOTAL AREA	2088 S.F.	3695 S.F.
DECKS	1085 S.F.	DECK	308 S.F.	1393 S.F.
DECK REMOVED	314 S.F.			
BALCONY	0 S.F.	BALCONY	110 S.F.	110 S.F.
GARAGE	672 S.F.	GARAGE	0 S.F.	672 S.F.
LOT COVERAGE	71.2 PERCENT	LOT COVERAGE	83 PERCENT	74 PERCENT
LOT	10,009 S.F. (0.23 ACRE)			

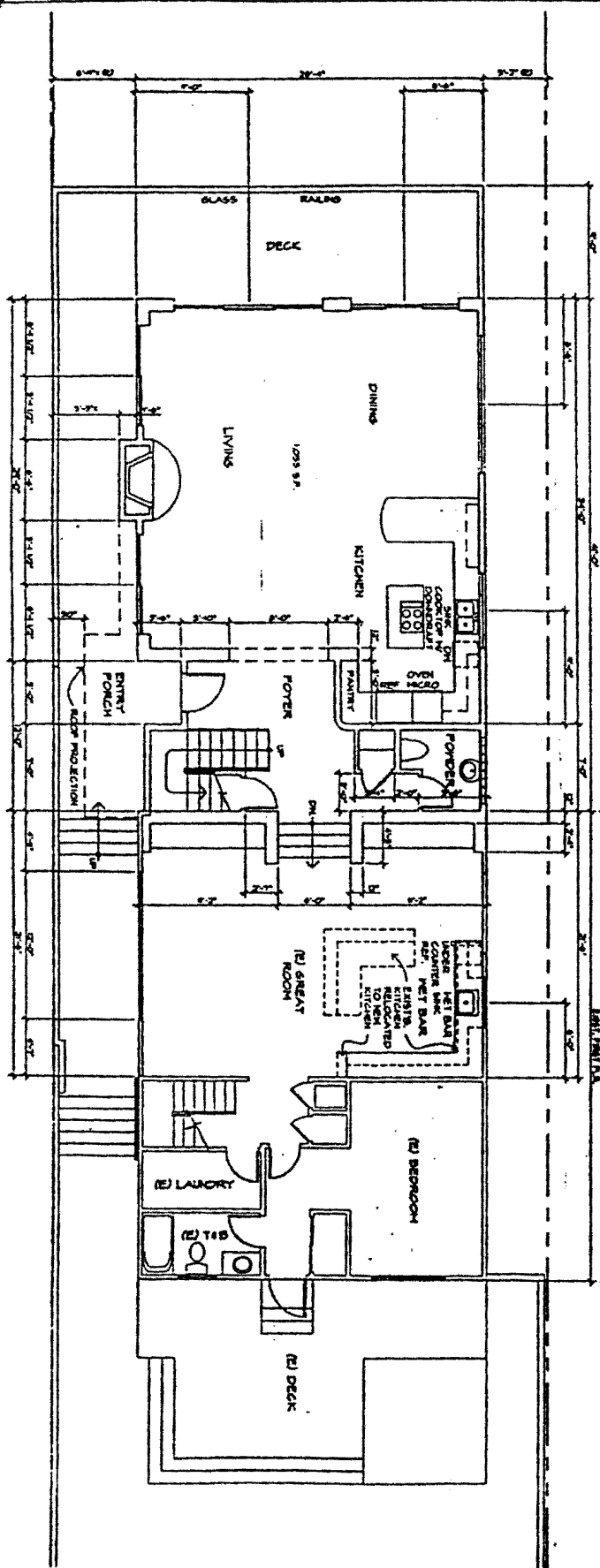
INTEGRAL DESIGN, INC.
WALT PHILIPP
507 COUNTY SQUARE DRIVE, SUITE 118

ALTERATION & ADDITION TO EXISTING
SINGLE FAMILY RESIDENCE FOR
MR. & MRS. ROB BARUCK

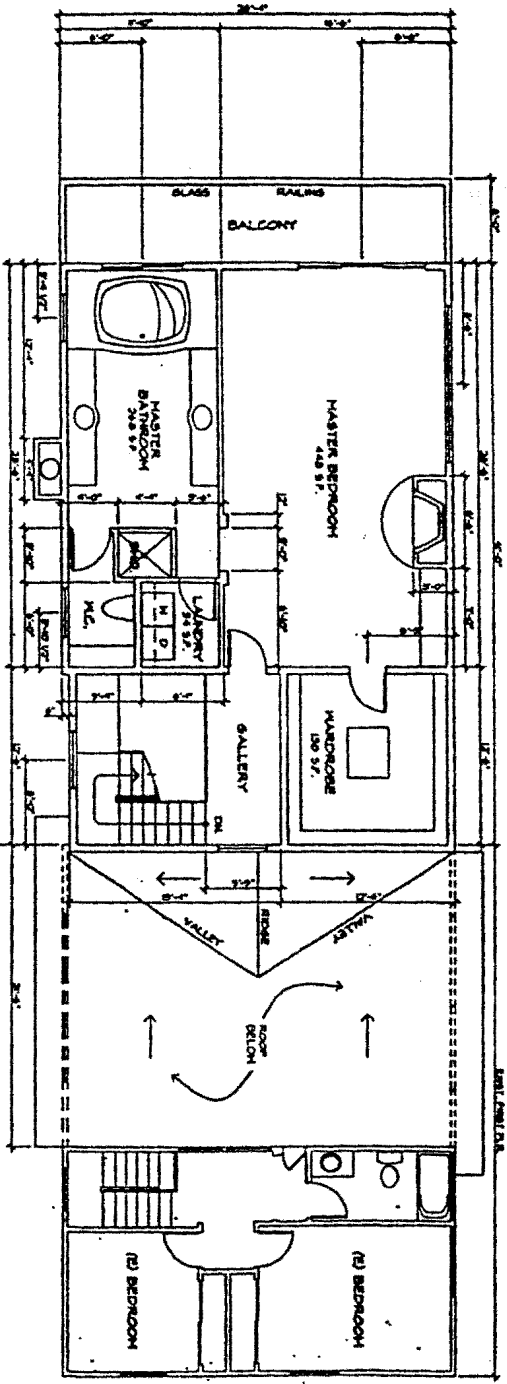
MR. & MRS. ROB BARUCK
3007 JAYNA
PEN VALLEY
CA. 94546
TEL. NO. 936

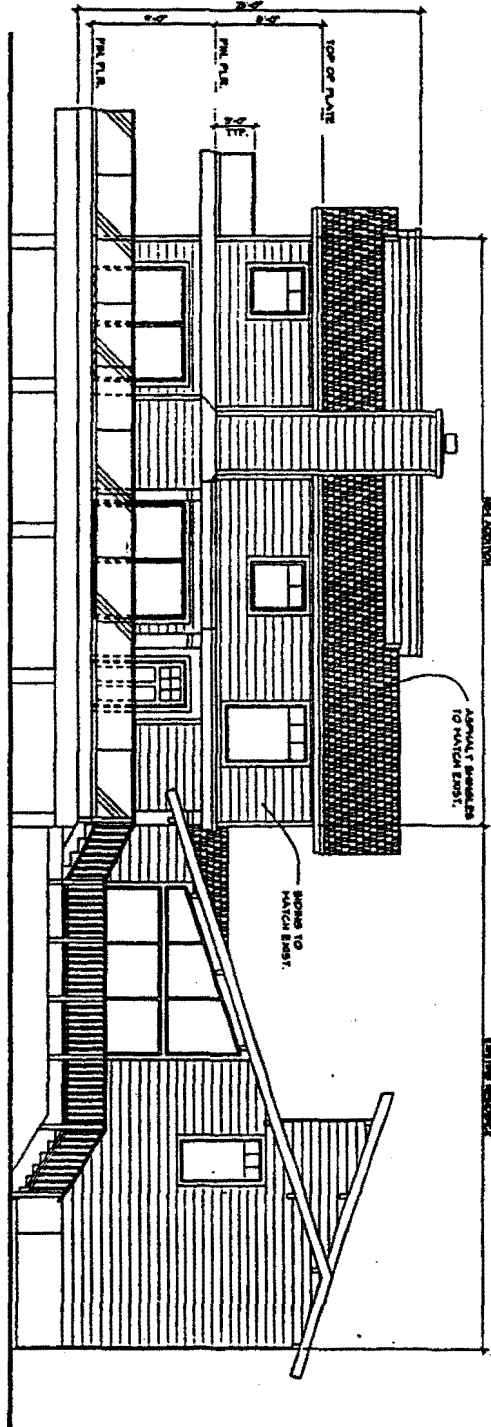
1 OF 4

FIRST FLOOR PLAN

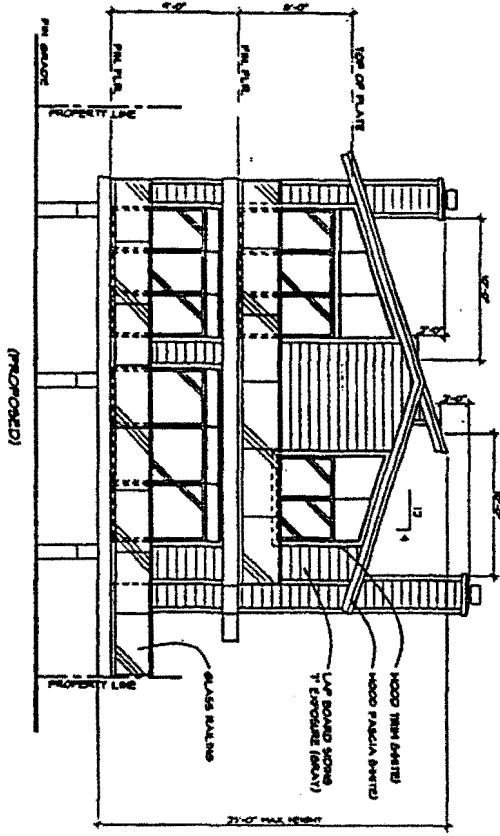


SECOND FLOOR PLAN





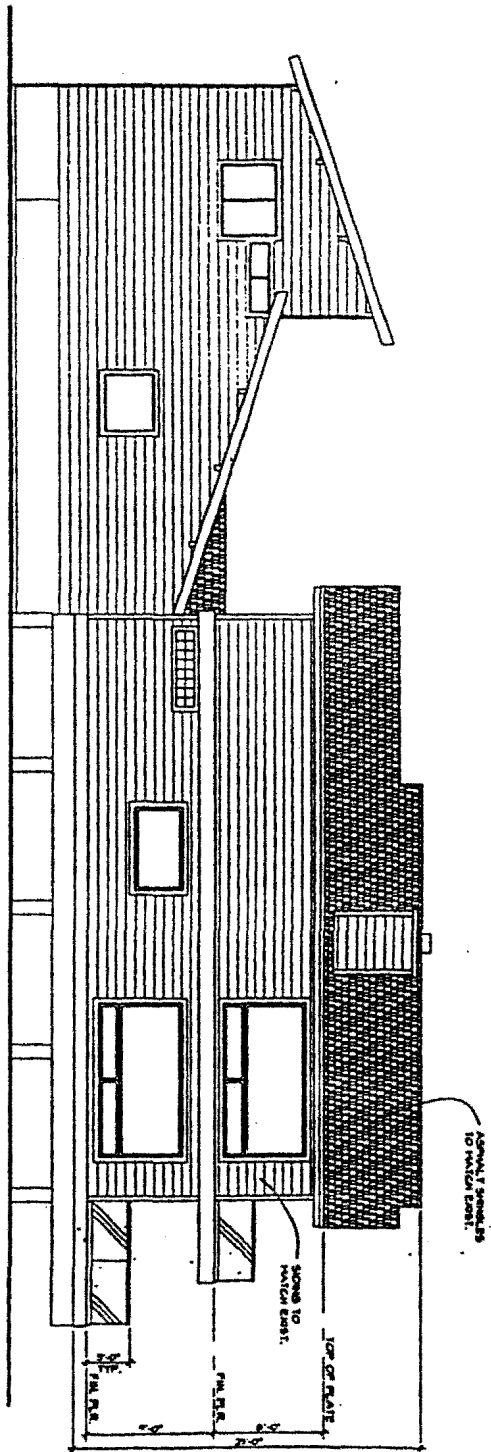
SOUTH
WEST



WEST

COLORS	
ROOF	LIBERTY TAN
TRIM	WHITE
ROOF	DARK GRAY
SHUTTER PANELS	WHITE
SHUTTER DOORS	WHITE
NOTE: COLORS TO MATCH EXISTING	

3 OF 4 3	DATE: _____ DRAWN BY: _____ CHECKED BY: _____	ELEVATION: _____ SCALE: _____	PROJECT NO.: _____ CLIENT: _____ ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____	ALTERATION & ADDITION TO EXISTING SINGLE FAMILY RESIDENCE FOR: MR. & MRS. ROB BARUCK	INTEGRAL DESIGN, INC. WALT PHILIPP 840 COUNTY ROAD 1000, SUITE 112 FARMINGTON, CT 06030	SCALE: _____ DATE: _____ DRAWN BY: _____ CHECKED BY: _____
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NORTH
1/4" = 1'-0"

APPLY FINISHES TO MATCH EXIST.

APPLY TO MATCH EXIST.

TOP OF SLATE

<p>DATE DRAWN BY</p>	<p>PROJECT ELEVATION</p>	<p>THE STRAIN OF MOON VALLEY FROM VALLEY TO THE ROAD</p>	<p>ALTERATION & ADDITION TO EXISTING SINGLE FAMILY RESIDENCE FOR MR. & MRS. ROB BARUCK</p>	<p>INTEGRAL DESIGN, INC. WALT PHILIPP 600 COUNTY SQUARE DRIVE, SUITE 118</p>	<p>SCALE DATE BY</p>
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ATTACHMENT F

Protest Letters

Dr. and Mrs. William H. Henry Jr.
1205 Capri Way
Oxnard, CA 93035-1808
(805) 984-4138

June 14, 2002

RECEIVED
2002 JUN 18 AM 8:53
CITY OF OXNARD
DEVELOPMENT SERVICES

Mr. Matthew Winegar, Director
Oxnard Development Services
305 West Third St.
Oxnard, CA 93030

Dear Mr. Winegar:

My wife and I own and reside at the letterhead address. It is our understanding from the owner of the property immediately south of ours at 1211 Capri Way, that he has plans for a major remodel in the final approval stages with the City. This remodel would elevate his first floor level by about six feet, and would extend his 2-story residence some 35 feet towards the ocean. Such construction would, of course, virtually eliminate our view field to the south, would greatly reduce the desirability and value of our property, and would constitute a major change from past practice in the Mandalay Beach area.

Even if Mr. Baruch otherwise has the right to do this remodel, it is necessary that we as the adjoining residence be protected against effectively having a 'wall' constructed some 5' from the south side of our house and extending 35' or so toward the water-line. There is no other construction along the beach where such a view advantage has been given to one of two side-by-side houses. I cannot believe for a moment that the City, Coastal Commission, or the Architectural Review Committee of the Homeowners Association would tolerate such a travesty and major change from past practice. While Mr. Baruch clearly has rights to the use and enjoyment of his property, it was never intended that those rights could extend to overwhelming the rights of the adjoining property.

With the departure of Deanna Walsh, the 'institutional memory' of the Planning Department has also departed. Fortunately, however, Realtor Bodine Elias (who is also the local Neighborhood Council president) has similar recall of the history of the beach at Oxnard Shores. It is my understanding that the Planning Department is on record and has been consistent in not allowing reconstruction any closer to the ocean than the present footprint of existing property. It was on this basis - and only this

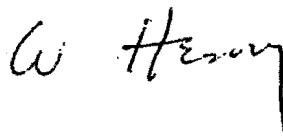
basis - that the recently built home at 1135 Capri was allowed to build to its present distance from the ocean - because it sits on a previous building footprint that extends to that point. And the owner of that property also owns the lots on either side so that there is a buffer between 1135 and the nearest homes, thus preserving their view. There is also the matter of the previously agreed upon 'stringline' to assure that no existing properties would lose their angular view field. We were also surprised to hear that instead of having to bring the entire 1211 structure up to code by installing reinforced concrete piers throughout, such piers are only planned for the added structure.

When my house (1205) was built by the previous owner and was allowed to extend beyond the neighbor house at 1211, a cut-out was required at the southwest corner to preserve the view field of 1211. Surely any design for the 1211 remodel can provide means for preserving the view field from 1205 and still provide for ample interior square footage on that large lot. Be advised that we favor a 1211 remodel; we just want to be sure that the livability of our home is not destroyed in the process.

I am confident that with a few concessions and compromises on each side, we can come up with a plan suitable to both us and Mr. Baruch without an extended and expensive delay necessitated by our seeking relief through the courts.

Thank you for your consideration.

Respectfully,



cc: Mayor and Council, City of Oxnard
Mr. Edmund Sotello, Oxnard City Manager
Ms. Bodine Elias, Neighborhood Council president
Mr. Juan Martinez, Oxnard Planning Dept
Architectural Committee, Mandalay Shores HOA

Dr. and Mrs. William H. Henry Jr.
1205 Capri Way
Oxnard, CA 93035-1808
(805) 984-4138

June 17, 2002

RECEIVED

JUN 18 2002

PLANNING DIVISION
CITY OF OXNARD

Mr. Matthew Winegar, Director
Oxnard Development Services
305 West Third St.
Oxnard, CA 93030

Dear Mr. Winegar:

Reference: Letter from the undersigned to you dated June 14 concerning proposed remodel at 1211 Capri Way.

I am advised that I should have included information as to safeguards taken at the time our property was purchased to ensure that the 1205 Capri view field, etc., was safe from encroachment.

During escrow and prior to closing on March 25, 1999, we were advised by the realty company that the history of Mandalay beach property was complicated and that the safest way of ensuring that we were properly safeguarded would be to contact the City. I therefore contacted Ms. Deanna Walsh of the Oxnard Planning Office - I had had frequent prior contact and a good working relationship with her during my immediately preceding 3 years as president of the HOA and SW-10 Neighborhood Council serving the 738 properties on the periphery of Mandalay Bay.

Ms. Walsh reviewed the Mandalay beach history with me - the CC&Rs, agreements, recently relaxed building moratorium, action by the State legislature, changing past practice, interpretations, etc., and noted that there is no one place where the current status of all this is codified. With particular regard to the 1211 property, Ms. Walsh stated that while that property extends closer to the mean high tide line than our 1205 property, that does not give the 1211 owner the right to extend the structure anywhere near to the property limit. She said this is not an arbitrary decision and pointed out the serious beach damage over the years, leading at one point to a moratorium on all beach construction. Ms. Walsh stated that the City fully realizes that the ocean view is the most valuable asset of beach properties and the City takes very seriously its obligation to ensure that view fields are protected, and that structures are protected from possible ocean damage, thereby maintaining the stability and equilibrium of property values on the beach.

She also said that it was unlikely that there would be an extensive remodel of 1211 inasmuch any significant structural change would require that the building be brought

up to code by the installation of reinforced concrete pilings under the entire building, not just the remodeled portion - and that could be an expense that would probably not be justified for an older structure. However, if the owner did commit to that expense - or if the structure were razed and an entirely new structure built, Ms. Walsh said that the 'front' of such a remodel or new structure would not be allowed to extend forward of a "string-line" drawn between 1205 and the presently furthest forward residence at 1221 Capri. This would give the 1211 owner maximum safe use of his property without significantly impairing the view field for any existing or yet to be built property (speaking of the lot between 1211 and 1221 which would also have the "string-line" limitation). Ms. Walsh noted that if the 1221 residence were ever to be rebuilt, it would not be allowed to be as close to the tide line as it now is.


When I asked where I could find this in writing, Ms. Walsh said it is not in writing, but it is past practice and consistent with the City's long standing protection of the view field of all beachfront property owners. She pointed out that if the City were to deviate from this position, it would destabilize property values throughout the beachfront - and the City realizes that owners/buyers of such expensive properties are entitled to the assurance that the ownership of their property will not be undermined by some unforeseen determination. I asked what would happen if she should retire and the response was that there would be no change in practice - Oxnard is committed to protecting ALL beachfront property owners.

We realize that Mr. Juan Martinez is new on the job - this is his first involvement with a beachfront remodel - he wants to do a good job - by the books. But this is not a typical property situation - it is exceedingly complicated by what has gone on in the past - and by the extent of damages possible from an incorrect decision. It is incumbent on the city to maintain the stability of beach property by not allowing the remodel as presently planned for 1211 - and to modify it as necessary to protect both the rights of the owner of 1211 - and us as owners of 1205 - and the rest of the beachfront owners who expect the City to follow past practice and protect the respective view fields of ALL beach property owners.

Thank you for your consideration.

Respectfully,



cc: Mayor and Council, City of Oxnard
Mr. Edmund Sotelo, Oxnard City Manager
Ms. Bodine Elias, Neighborhood Council president
Mr. Juan Martinez, Oxnard Planning Dept 
Architectural Committee, Mandalay Shores HOA
California Coastal Commission

LAW OFFICES

MITCHELL W. EGGERS, INC.
A PROFESSIONAL CORPORATION

RECEIVED

JUL 08 2002

**PLANNING DIVISION
CITY OF OXNARD**

205 SOUTH BROADWAY, SUITE 502
LOS ANGELES, CALIFORNIA 90012
TELEPHONE (213) 626-6831
FACSIMILE (213) 626-0017

July 2, 2002

Mr. Matthew Winegar
Director Oxnard Development Services
205 West Third Street
Oxnard, CA 93030

Re: My property lot 50, 1109 Capri Way, Oxnard, CA
Request For Immediate Action

Dear Mr. Winegar:

In the first half of May 1993 I contemplated buying a vacant lot on Capri Way, Oxnard Shores, City of Oxnard. The lot extended westward from Capri Way a distance of 120 feet (to be precise a 119.99 feet) toward the ocean. To the south of Lot 50 was a dedicated 10 foot parcel (parcel P) and to the south of that was located an old house numbered 1115 Capri Way. I understood the lot on which 1115 Capri Way was located extended 140 feet toward the ocean or 20 feet beyond my lot line. The house at 1115 Capri Way was only approximately 100 feet, including the illegal 17-foot extension (built on the west end closest to the ocean).

Knowing of the disparity in length of Lot #50, the lot I contemplated buying, and the length of the lot to the south of me at 1115 Capri Way, I contacted the City of Oxnard and talked to Deanna Walsh then the Coastal Planner for the city. I told her that I would not purchase Lot 50 if it were possible for the Lot to the south of me on which the house numbered 1115 Capri Way was located to eventually build out past my 120 foot westerly lot line. I was acutely aware of the fact that if I built on Lot 50 out to the maximum permissible westerly lot line, and if the old house at 1115 Capri Way was able to remodel, or tear down and build a new structure, to its 140 foot lot line, my entire

southerly view would be blocked. I would then have a "tunnel effect" which would greatly reduce the value of my property.

Deanna Walsh assured me in writing, in a letter dated May 18, 1993, that such building of houses causing a "tunnel effect" on adjacent property would not be allowed. A copy of Deanna Walsh's letter is enclosed herewith.

It is based upon Ms. Walsh's representations as a duly authorized representative of the City of Oxnard, that I purchased Lot 50, which at that time, cost appreciably more than other lots that were available. I was willing to spend the additional money because of Ms. Walsh's representation.

Because I wish Ms. Walsh's letter to be a part of this letter, I am quoting it exactly as follows:

"It is the intent of the City of Oxnard to pursue a local Coastal Plan Amendment to establish a string line equal to the new beach front subdivision, Tract 4380. The purpose of this amendment is to prevent older properties, not part of Tract 4380, from building homes out past the new subdivision creating a tunnel effect or impacting adjacent properties."

Deanna Walsh, Coastal Planner
City of Oxnard

In law, there is a doctrine of "Detrimental Reliance", i.e. I would not have purchased Lot 50, at the very substantial additional cost to the purchaser, if I had not relied upon the letter and representations of Mrs. Walsh, Oxnard's duly appointed representative in 1993. I am sure your attorneys can explain the law of "Detrimental Reliance" to you.

The lot to the south of me, numbered 1115, has now changed hands and the new owner has indicated that he intends to tear down the house and build a new house to the maximum allowable westerly lot line of 140 feet. If this is allowed, this will completely eliminate my view to the south causing a situation that I was fearful of before I purchased the lot. I would not have purchased Lot 50 absent the assurances of Ms. Walsh. Unless something is done by the City of Oxnard to remedy the situation, the city should contemplate lawsuits not only as it affects my property but additional properties to the south of me. Dr. William Henry owns a house at 1205 Capri Way,

Oxnard (Lot #56). The owner of the residence to the south of Dr. Henry, located at 1211 Capri Way, has submitted plans, which are now before the city, for approval of an extension of approximately 35 feet beyond Dr. Henry's property. I understand that this extension is being justified by the owner of 1211 Capri Way on the basis that there is no limitation on how far west toward the ocean he may go. After reviewing maps of Tract 4380 in the City of Oxnard, it appears that all lots at the southerly end of Capri Way have no limitation on lot lines going in a westerly direction towards the ocean. This means, in effect, that there can be great and serious damage done to existing homes that do have such a limitation.

Based upon Ms. Walsh's representation to me, and general laws concerning preventing obstruction of light, view, etc., I propose the following: That the City of Oxnard, planning commission, city council and involved parties and entities pass the following resolution:

"Front Yard Setback"

1. Defined: The front yard shall be the area between the Pacific Ocean and the main structure.
2. Required: Front Yard Setback

No building or structure shall be:

Constructed beyond an extension of the westerly property lines of the adjacent or abutting lots whether such lots contain structures or not. In the event that the adjacent or abutting properties are of unequal lengths, any new or rebuilt construction shall not extend a distance beyond the average westerly extension line of the adjacent or abutting properties, unless such construction replaces a structure that already exists beyond the lines specified herein.

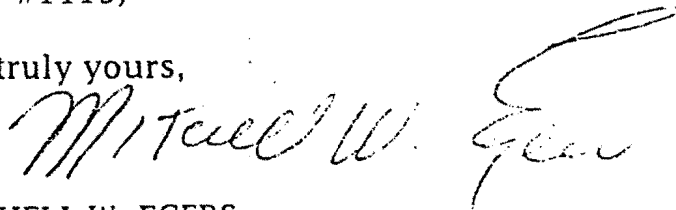
I invite any inquiry that you may have and as well as an opportunity to speak to you, or any members of the planning commission, city council or applicable entities. I believe immediate action on this problem is required to obviate the necessity of future litigation for the

City of Oxnard and property owners who want to build beyond the "string line" referred to in Deanna Walsh's letter.

I am enclosing:

- A. Copy of a letter dated May 18, 1983 from Coastal Planner, Deanna Walsh.
- B. An aerial photograph of the subject area taken prior to the purchase of my Lot (#50).
- C. Parcel map showing my Lot 50 (now 1109 Capri Way) and the lot to the south of me between lots numbered 50 and 51 (house #1115)

Very truly yours,



MITCHELL W. EGGERS

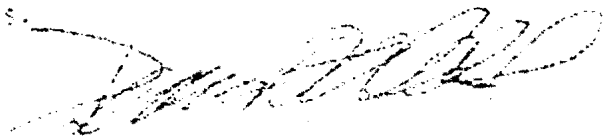
MWE/lm

Enclosure

cc Mayor of Oxnard
cc Mr. Juan Martinez, Oxnard Planning Department
cc California Coastal Commission
cc Marilyn Miller, Planning and Environmental Services Manager

May 18, 1993

It is the intent of the City of Oxnard to pursue a local Coastal Plan Amendment to establish a stringline equal to the new beach-front subdivision, Tract 4380. The purpose of this amendment is to prevent older properties, not part of Tract 4380, from rebuilding homes out past the new subdivision creating a tunnel effect or impacting adjacent properties.



Eleana Walse
Coastal Planner
City of Oxnard

1998

EAST



NORTH
←

SOUTH

34 West

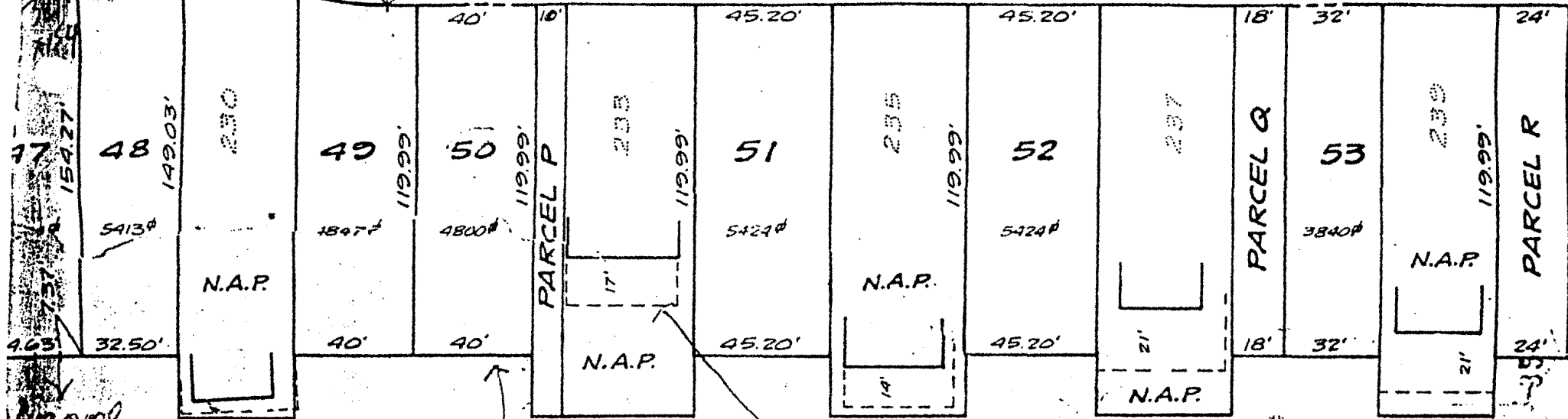
3 EACH

BREAKWATER

187.01'
R. 4° 54' 29" 11"
L = 95.10'

1109
CAPRI ↓
1115
CAPRI ↓

CAPRI
N 23° 21' 00" W 775.54'



My House is
Built to
Here

1115 existing
~~House~~ House

PARCEL 0

OWNER OF 1115 plans
TO BUILD TO HERE

N 24° 46' 09" W 557.89'

Ken

cc: Mr. Wray, ...

Dr. and Mrs. William H. Henry Jr.
1205 Capri Way
Oxnard, CA 93035-1808
(805) 984-4138

CONESTO MARKYN
SUE M
LAULA K
M.M.

July 12, 2002

2002 JUL 15 PM 3:54
CITY OF OXNARD
DEVELOPMENT SERVICES
RECEIVED

California Coastal Commission
89 South California St.
Ventura, CA 93003

Ladies and Gentlemen:

I have previously copied your office on several communications concerning a proposed 35 ft westerly addition to the residence at 1211 Capri Way, Oxnard. I believe this plan to now be in the final approval stages at the Oxnard Planning Office.

I contend that this addition would seriously disadvantage our adjacent property - that it would completely obstruct our view field to the south - cause our house to become a so-called "tunnel" property - and seriously reduce its value and enjoyability. Additionally, I believe people are overlooking the ever present threat from the sea. The present structures were all placed well back from the mean high tide line for a reason - and that reason lies in the numerous destroyed properties on this beach over the years resulting from sea damage. And lastly, the proposed construction violates all previous assurances from a representative of the City of Oxnard.

There is an equilibrium on the beach presently which, I believe, has evolved from both City and Coastal Commission intervention to assure maximum safety under dangerous sea conditions. These measures include the requirements for pilings and a safe distance from probable sea incursions. These rulings have applied to all new or remodel construction and have resulted in a stable beach community - a constant 'front line' of houses where each property gets a great and protected view - and each house is on pilings and far enough back from the water as to be safe from any likely sea encroachment.

While I certainly agree that my neighbor's house is badly in need of reconstruction - and while I recognize his right to 'line up' with the rest of the houses - what I seriously object to is his intention to construct a 2-story structure 5 feet from my house - which extends 35 ft further westerly than my house.

While I don't know the charter of the Coastal Commission as it applies to such construction, I have reason to believe that you do have some level of involvement. I therefore urge you to investigate this matter and act to preserve the safety and property values of existing residences, and thus the equilibrium of the entire beach community.

If I can provide any assistance or be of other service to you, please let me know. Also, I would appreciate hearing from you on this matter.

Respectfully,

W.H.H.

cc: Mr. W. Henry, Oxnard

MEMORANDUM FOR RECORD

July 11, 2002

Subject: Proposed Remodel/Addition to 1211 Capri Way, Oxnard

To: Distribution List

From: Dr. Wm. H. Henry Jr., 1205 Capri Way, Oxnard 93035

References: Letters to Distribution List dated June 14 and 17, 2002
Memo to Mandalay Shores Community Assn dtd June 18, 2002
Memo to Beachfront Owners, Capri Way, dtd June 28, 2002

I attended the regularly scheduled meeting of the Board of Directors, Mandalay Shores Community Assn, at 6:15 p.m. this date. Noting the above references, I briefly described the subject remodel, its potentially adverse impact on my immediately adjacent property, and its serious impact on the entire Mandalay Beach community.

It was my request that the Association's Architectural Committee disapprove the proposed remodel in its present form (in the event that neither the City nor Coastal Commission disapprove it), and that the owner be required to revise said plan until it comes into full compliance with the spirit and intent of the Association's CC&Rs. I specifically noted CC&R Article III entitled *Architectural Control and Approval of Plans* and the Architectural Committee's several included obligations. I stated that while I was confident that the City and the Coastal Commission would not approve the plan in its present form, that I considered the Architectural Committee to be a last line of defense in order to preserve the equilibrium of the beach and to prevent the considerable deviation from past practice.

Beachfront owners have purchased their respective properties in good faith and with the expectation that their safety, view fields, and property values will be protected. Any deviation from established practice would work to the detriment of the entire community - and clearly the City, Coastal Commission, and Homeowners' Association must all be committed to the assurance of neighborhood safety and protection of property owners.

I left the meeting with the sense that Board Members were at least initially informed and properly concerned with the problem at hand, would inform themselves on the relevant issues, and would take action as deemed necessary and appropriate.

JUAN MARTINEZ

Dr. and Mrs. William H. Henry Jr.
1205 Capri Way
Oxnard, CA 93035-1808
(805) 984-4138

July 17, 2002

Mr. Matthew Winegar, Director
Oxnard Development Services
305 West Third St.
Oxnard, CA 93030

RECEIVED
2002 JUL 18 PH 3:26
CITY OF OXNARD
DEVELOPMENT SERVICES

Dear Mr. Winegar:

I am concerned that I have not received a response from you to my letters of June 14 and 17. Substantive inquiries deserve substantive - and timely - responses. Surely you have internal procedures requiring full responses within some number of days - typically 20 - or an interim response within 10 or 15 days indicating when a complete response may be expected (at least this is the way I and every professor I know of teaches Principles of Public Administration). I assume a response will be immediately forthcoming.

Without modifying my previous correspondence, I would take this opportunity to expand on an issue touched on only lightly in those letters. As I understand it, all the oceanfront lots on Capri Way - if not all or most of the oceanfront lots on Mandalay Beach - at one time extended westerly to the mean high tide line - with appropriate easements for public use of the beach. Following a number of years with heavy property damage from the ocean, there came a time when an effort was made to lessen the likelihood of further damage by assuring a greater distance between the forward edge of housing construction and the ocean. I can't speak to the particulars, but by some process or other, most lots in the revised tracting were foreshortened so as to extend only 120 feet westerly, or in a few cases 140 feet, from the street - thus providing a greater margin of safety from ocean damage.

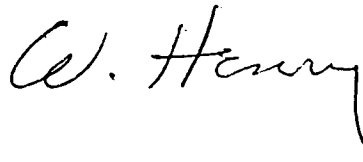
While most lots were subject to this foreshortening, some were not. My neighbor's lot at 1211 Capri Way - and several to his south - were among those which somehow escaped the foreshortening. Now in modifying most properties to establish a safer westerly line for residences by placing those oceanfront segments in the public domain, it was clearly never intended that those properties being reduced in size could at a later date be turned into "tunnel" properties by the construction of structures much closer to the ocean on the adjoining lots which were not foreshortened. The obvious intention of all this property line shuffling was for the safety of the public and private property. It was never intended that structures could be built further westerly on those properties which continue to extend to the mean high tide than on those properties whose western limit was established at 120/140 feet from Capri Way.

If the threat of ocean damage is now so reduced that the City and Coastal Commission would now condone this "race to the sea" by allowing the proposed construction at 1211 Capri Way, it is clear that all the property that was taken from the other lots should be returned so that they, too, can protect their investments and their views by also extending toward the sea. I personally doubt that the likelihood of ocean damage is now so reduced that any public authority can safely authorize westerly construction, thus jeopardizing the property values and views of those who trusted that the limits now in being could be relied upon by buyers of beach property.

And lastly, having briefly reviewed the "remodel" plans for 1211 Capri Way, I do not see any 'blow-out' sections which would prevent the deflection of incoming water to my property. Nor do I see any safeguard to prevent the sand from duning in my view field as a result of being blown against the 1211 addition by the prevailing westerly winds. I am certain I will have further discrepancies to note if we end up in court. Clearly, the plan as submitted is a far cry from the plan suggested to me by the owner when I purchased this property - and, as noted earlier - a complete repudiation of the assurances of the City as expressed by Coastal Planner Deanna Walsh.

I await your reply.

Respectfully,



cc: Mayor and Council, City of Oxnard
Mr. Edmund Sotelo, Oxnard City Manager
Ms. Bodine Elias, Neighborhood Council President
Mr. Juan Martinez, Oxnard Planning Dept
Architectural Committee, Mandalay Shores HOA
California Coastal Commission

JUAN MARTINEZ

Dr. and Mrs. William H. Henry Jr.
1205 Capri Way
Oxnard, CA 93035-1808
(805) 984-4138

RECEIVED
2002 JUL 22 AM 11:11
CITY OF OXNARD
DEVELOPMENT SERVICES

July 18, 2002

Mr. Matthew Winegar, Director ✓
Oxnard Development Services
305 West Third St.
Oxnard, CA 93030

Coastal Commission
89 South California St.
Ventura, CA 63003

Ladies and Gentlemen:

This is in further reference to my earlier letters about the planned remodel of the house at 1211 Capri Way in Oxnard. While I don't propose to make a vocation of writing letters on this subject, there is a piece of relevant information - new to me but presumably not new to you - which has an important bearing on the matter and needs to be on the record.

I am advised by long term residents that a series of storms and violent sea action during the 1970s destroyed a number of Capri Way properties - and that the residence at 1211 Capri was among those destroyed beyond habitation. I understand it was subsequently rebuilt to essentially the same footprint - *before* the moratorium on new construction and *before* the requirement was promulgated for reinforced concrete pilings and other safeguards intended to protect area beachfront properties.

In other words, the 1211 residence continues to be a menace to itself and neighboring properties as it sits - and certainly any westerly addition to that house would constitute an unconscionable risk to the owner as well as the neighboring residences which at great expense have been built to withstand such sea damage when and as it occurs in the future. Certainly there is no evidence that the sea conditions will never again be a threat.

Kindly take the necessary action to ensure the safety of the residences which you have approved in the more recent past by disapproving the planned remodel of 1211 Capri Way.

Respectfully,

W. Henry

August 2, 2002

Robert G. Boehm
1130 Capri Way
Oxnard, CA 93041

APN. 191-092-015

RECEIVED

AUG ' 6 2002

PLANNING DIVISION
CITY OF OXNARD

City of Oxnard
Planning and Environmental Services
305 West 3rd St.
Oxnard, CA 93030

Attention: Marilyn Miller, Planning & Environmental Services Manager

In the Spring of last year, I made a written request for "written notice of all hearings or other proceedings before the Oxnard Planning Commission, any city administrative hearing officer, or any other city body or board bearing on any permit or other entitlement for new development on any property located along Capri Way, or the expansion of existing development on such property."

It recently came to my attention that a the owner of the ocean front property at 1211 has applied for or already has been issued a coastal development permit to substantially expand the single family residence currently located on that property. Please confirm whether or not this information is correct. If an application has been filed, has an administrative hearing already been held on the application? If hearing has already been held on the application, when was it held and why was I not provided with notice of the hearing? If the hearing was held and the permit issued, when was the permit issued?

Would you also please take this letter as an additional request for written notice of all hearings of other proceedings before the Oxnard Planning Commission, any city administrative hearing officer, or any other city body or board bearing on any permit or other entitlement for new development on any property located along Capri Way, or the expansion of existing development on such property.

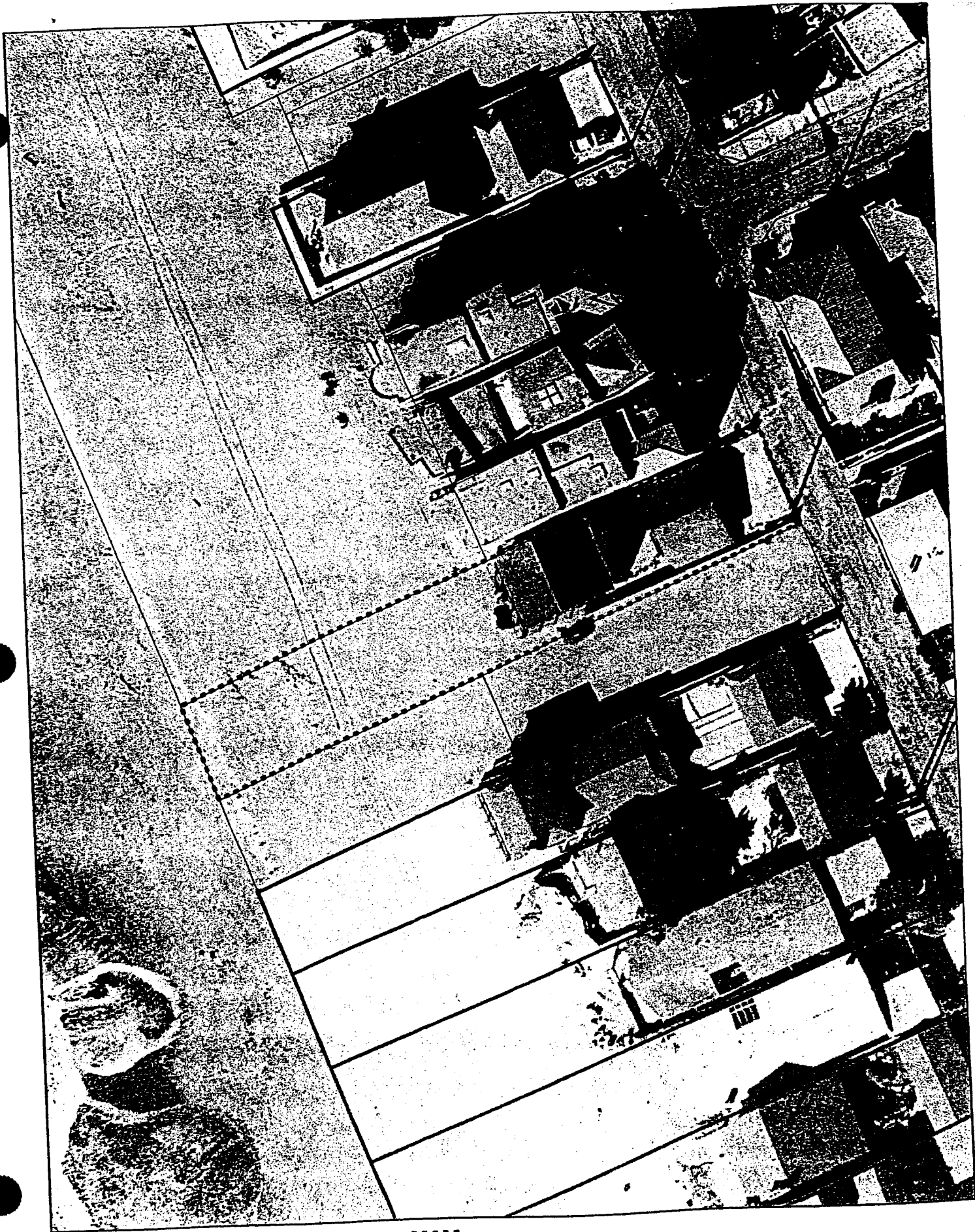
Sincerely,






Robert G. Boehm

ATTACHMENT G

Aerial Image Layout



-  Project Site
-  Settlement Parcels
-  Parcel Boundaries



ATTACHMENT H

Coastal Commission Letter

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
85 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

**RECEIVED**

SEP 19 2002

PLANNING DIVISION
CITY OF OXNARD

September 18, 2002

Marilyn Miller
Planning & Environmental Services Manager
City of Oxnard
305 West Third Street
Oxnard, CA 93030

Re: CDP Application No. 02-400-3
1211 Capri Way, Oxnard

Dear Ms. Miller,

The purpose of this letter is to provide comment on the above referenced coastal development permit application prior to the preparation of the staff report for the upcoming Planning Commission hearing.

Upon reviewing the application file, Staff has determined that the proposed project is inconsistent with the City's LCP and the Coastal Act, and therefore, it is likely that the permit would be appealed by the Coastal Commission, if approved by the City as proposed for the reasons that follow.

As proposed, the development would entail an addition to an existing beachfront residence. The proposed addition would result in the extension of the residence fifty feet further seaward onto the sandy beach, which is over thirty feet further seaward than the existing adjacent residence. Applying the policies of the Coastal Act, the Commission has typically applied a 'stringline policy' to beachfront development in order to address the impacts of incremental encroachment onto sandy beach area along the coastline. Such incremental encroachment of beachfront development further seaward than existing adjacent development results in a 'domino effect'. The domino effect creates cumulative adverse impacts on public access and views along the shoreline as well as hazards associated with oceanfront development due to wave action on a beach that displays significant oscillation. El Niños in the late 1970s and early 1980s created severe beach erosion along the Oxnard Shores area and resulted in wave uprush all the way up onto Capri Way. Although the City does not have a 'stringline policy' in place, the project as proposed is inconsistent with Sections 30210, 30211, 30251 and 30253 of the Coastal Act, the Public Access and Recreation, Visual Resources, and Hazards policies respectively, which are incorporated into the City of Oxnard's LCP in concert with related Local Coastal Policies.

As discussed previously, Staff suggests that the City amend the LCP to incorporate a stringline or similar policy to implement on future beachfront projects in order to prevent adverse impacts on coastal resources. Staff would be happy to cooperate with the City in such an effort.

Please feel free to contact me at the number above if you would like to discuss this issue further. Thank you for your time and attention to this matter.

Sincerely,

Kara Kemmler
Coastal Program Analyst

cc: Juan Martinez, City of Oxnard
Jack Ainsworth, CCC
Rob Baruck, CDP Applicant

ATTACHMENT I

Coastal Act Sections

(c) Near the head of the south branch of Los Penasquitos Canyon, the boundary is moved seaward to the five-mile limit as described in Section 30103 and as specifically shown on map A.

[Added, Chapter 1128, Statutes of 1979]

Chapter 3. Coastal Resources Planning and Management Policies

Article 1. General

30200. Policies as standards; resolution of policy conflicts

(a) Consistent with the coastal zone values cited in Section 30001 and the basic goals set forth in Section 30001.5, and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section 30500), and the permissibility of proposed development subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on coastal zone resources in order to assure that these policies are achieved.

(b) Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

[Amended, Chapter 43, Statutes of 1982]

Article 2. Public Access

* 30210. Posting of access

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

[Amended, Chapter 1075, Statutes of 1978]

* 30211. Development shall not interfere with access

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

[Amended, Chapter 1331, Statutes of 1976]

30212. Access from new projects

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for

and liability of the accessway

(1) Replacement of any structure pursuant to the provisions of (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence provided, that the reconstructed residence shall not exceed either the floor area or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the structure.

(3) Improvements to any structure which do not change the intended use, which do not increase either the floor area, height, or bulk of the structure more than 10 percent, which do not block or impede public access, and which do not constitute a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, reconstructed or repaired seawall is not seaward of the location of the former seawall.

(5) Any repair or maintenance activity for which the commission determines, pursuant to Section 30610, that a coastal development permit is required unless the commission determines that the activity will have an adverse effect on lateral public access along the beach.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it affect the performance of duties and responsibilities of public agencies which are not provided for in Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 1 of Article X of the California Constitution.

[Amended, Chapter 744, Statutes of 1983]

30212.5. Distribution of public facilities

Wherever appropriate and feasible, public facilities, including parking facilities, shall be distributed throughout an area so as to mitigate against the effects of social and otherwise, of overcrowding or overuse by the public of any single area.

[Added, Chapter 1330, Statutes of 1976]

30213. Encouragement of lower cost visitor and recreational facilities

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

The commission shall not: (1) require that overnight room rentals be provided in any amount certain for any privately owned and operated hotel, motel, or other visitor-serving facility located on either public or private lands; or (2) require the commission to approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facility.

[Amended, Chapter 285, Statutes of 1991]

30214. Implementation of public access policies; legislative intent

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case and shall not be limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to ingress and egress depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

* **30251. Scenic and visual qualities**

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 land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

[Added, Chapter 1330, Statutes of 1976]

30252. Enhancement and maintenance of public coastal access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

[Added, Chapter 1330, Statutes of 1976]

* **30253. Development mandates**

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- (4) Minimize energy consumption and vehicle miles traveled.
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

[Added, Chapter 1330, Statutes of 1976]

30254. Public works facilities design

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not

30254.5. Sewage treatment plant development; prohibitive terms or conditions

Notwithstanding any other provision of law, the commission may not in term or condition on the development of any sewage treatment plant which is to any future development that the commission finds can be accommodated by this division. Nothing in this section modifies the provisions of Sections 30254 and 30412.

[Added, Chapter 978, Statutes of 1984]

30255. Coastal-dependent developments; priority; wetlands

Coastal-dependent developments shall have priority over other developments or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-dependent developments should be accommodated within reasonable proximity to the dependent uses they support.

[Amended, Chapter 1090, Statutes of 1979]

Article 7. Industrial Development

30260. Expansion or location of

Coastal-dependent industrial facilities shall be encouraged to locate within existing sites and shall be permitted reasonable long-term growth consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other provisions of this division, they may nonetheless be permitted in accordance with this section if (1) alternative locations are infeasible; (2) to do otherwise would adversely affect the environment; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

[Added, Chapter 1330, Statutes of 1976]

30261. Use and design of tanker facilities

Multicompany use of existing and new tanker facilities shall be encouraged to the maximum extent feasible and legally permissible, except where to do so would increase tanker operations and associated onshore development incompatible with the land use and environmental goals for the area. New tanker terminal areas shall be situated as to avoid risk to environmentally sensitive areas and shall use a monobuoy system, unless an alternative type of system is shown to be environmentally preferable for a specific site. Tanker facilities designed to (1) minimize the total volume of oil spilled, (2) minimize the risk of oil from movement of other vessels, (3) have ready access to the most effective containment and recovery equipment for oil spills, and (4) have onshore facilities to receive any fouled ballast water from tankers where operationally required.

[Amended, Chapter 182, Statutes of 1987]

30262. Development of gas and oil; permitted

Oil and gas development shall be permitted in accordance with Section 30261 if the following conditions are met:

- (a) The development is performed safely and consistent with the conditions of the well site.
- (b) New or expanded facilities related to such development are consolidated, to the maximum extent feasible and legally permissible.

7-7-02-02-49

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
88 SOUTH CALIFORNIA ST., SUITE 200
SAN FRANCISCO, CA 94101
(800) 585-1800



APPEAL FROM COASTAL PERMIT DECISION
OF LOCAL GOVERNMENT

RECEIVED

DEC 17 2002

SECTION I. APPELLANT(S)

Name, Mailing Address and Telephone Number of Appellant(s):

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Chair Sara Wan and Commissioner Shirley Dettloff
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105
(415) 904-5200

SECTION II. DECISION BEING APPEALED

1. Name of local government/port: City of Oxnard
2. Brief Description of development being appealed: Construction of a new 2,194 sq. ft., two story addition to an existing 1,085 sq. ft., two story single family residence with detached two car garage on a 10,000 sq. ft. beachfront parcel in the Oxnard Shores Neighborhood.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
1211 Capri Way, Oxnard [APN No. 191-0-091-125]
4. Description of decision being appealed:
 - a. Approval with 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.

5. Decision being appealed was made by:
 - a. Planning Director/Zoning Administrator
 - b. City Council/Board of Supervisors
 - c. Planning Commission
 - d. Other _____
6. Date of Local Government's decision: November 7, 2002
7. Local Government's file number (if any): PZ 02-400-3

SECTION III. IDENTIFICATION OF OTHER INTERESTED PERSONS

Give the names and address of the following parties (Use additional paper if necessary):

a. Name and mailing address of permit applicant:

Mr. Walt Philipp
Integral Design, Inc.
950 County Square Drive, Suite 116
Ventura, CA 93003

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) Dr. William H. Henry, Jr.
1205 Capri Way, Oxnard, CA 93035
- (2) Mitchell W. Egers
1109 Capri Way, Oxnard, CA 93035
- (3) Rob Baruck
18007 Jayhawk Drive, Penn Valley, CA 95946

SECTION IV. REASONS SUPPORTING THIS APPEAL

The appeal of the City of Oxnard's decision to approve the construction of a new 2,194 sq. ft., two story addition to an existing 1,085 sq. ft., two story single family residence with detached two car garage on a 10,000 sq. ft. beachfront parcel is based on the following identified grounds.

A. HAZARDS AND SEAWARD ENCROACHMENT

The City of Oxnard Coastal Land Use Plan (LUP) incorporates Section 30253 of the Coastal Act, which states that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Local Coastal Policies 39 and 40 state:

39. *All applications for grading and building permits and subdivisions shall be reviewed for threats from hazards such as seismic activity, liquefaction, tsunami run-up, seiche, beach erosion, flood, storm wave run-up, and expansive soils. Geologic reports may be required in known hazard areas. Appropriate mitigation measures shall be applied to minimize threat from any hazards.*
40. *a. If new development is located within the 100-year flood and storm wave run-up area as designated by the Department of Housing and Urban Development and on the land use map, it shall be designed and engineered to withstand the effects of the*

flooding and wave run-up without the use of seaways or other protective structures...

b. Any development located on the beach shall be designed to assure lateral beach access.

Further, the City's LUP states:

Beach erosion, storm wave run-up and flooding are problems within much of the City's coastal zone. Erosion and storm wave run-up threaten the 27 homes located west of Mandalay Beach Road in Oxnard Shores. Adjacent vacant parcels are also eroding. The parcels are within the 100-year flood line designated by the U.S. Department of Housing and Urban Development.

The proposed project site is located in the Oxnard Shores Neighborhood in the City of Oxnard. The project proposes construction of a 2,194 sq. ft., two story addition with a first floor deck and a second floor balcony to an existing 1,085 sq. ft., two story single family residence on a beachfront parcel. The proposed addition would encroach fifty feet further seaward than the existing residence onto the sandy beach and extend thirty-eight feet further seaward than the existing residence on the adjacent lot on a beach that routinely experiences significant erosion from storm wave scour. Section 30253 of the Coastal Act requires that development shall minimize risks to life and property in areas of high flood hazard. In this case the proposed structural addition represents a significant seaward extension of development and will result in the structure being subjected to more frequent and vigorous storm waves and associated beach erosion. Siting new development significantly seaward on a beach subject to scour from storm waves does not minimize risks to property as is required pursuant to Section 30253 of the Coastal Act and the local coastal policies of the Oxnard LCP.

In addition, sea level has been rising slightly for many years. The historic rate of sea level rise has been 1.8 mm/yr. or about 7 inches per century¹. Sea level rise is expected to increase by 8 to 12 inches in the 21st century². There is a growing body of evidence that there has been a slight increase in global temperature and that an accelerated rate of sea level rise can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion in several ways and an increase in the average sea level will exacerbate shoreline erosion.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, such as the subject beach, with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as single family residences, bulkheads, revetments, seawalls, pilings, an increase in sea level will increase the extent and frequency of wave action and future inundation of the structure. More of the structure will be inundated or underwater than that which is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

¹ Hicks, Steacy D. and Leonard E. Hickman, Jr. (1988) United States Sea Level Variations Through 1986. Shore and Beach, Vol. 56, no. 3, 3 - 7.

² Field et. al., Union of Concerned Scientists and the Ecological Society of America (November 1999) Confronting Climate Change in California, www.ucsusa.org.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, ocean bottom depth controls nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage.³ So, combined with a physical increase in water elevation, a small rise in sea level can expose areas that are already exposed to wave attack to more frequent wave attack with higher wave forces.

Therefore, if new development along the shoreline is to be found consistent with the LCP, the most landward location must be explored to minimize wave attack with higher wave forces as the level of the sea rises over time. Shoreline structures must also be located as far landward as feasible to protect public access along the beach as discussed further below. In this case the proposed structure is not sited as far landward as is feasible to minimize the risks from storm wave action and beach erosion as is required pursuant to Section 30253 of the Coastal Act and the Oxnard LCP.

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access and minimize wave hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views, the Commission has, in past permit actions, developed the "stringline" policy. A stringline policy has been established in many coastal communities in the area, including Carpinteria and Malibu. While the City of Oxnard does not have an established stringline policy in the LCP, the City has applied the concept to beachfront development in past permit actions (PZ 01-6-80). As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks, or other appurtenant structures, to a similar line drawn between the nearest corners of the adjacent decks, or other appurtenant structures. This policy has been applied to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches.

The neighborhood has been developed with numerous single family residences located to the east and west of the subject site. As discussed in the City's staff report, a settlement agreement that occurred in 1988 regarding the lots in the Oxnard Shores area required a reconfiguration of most of the lots in the area, which created a boundary line establishing beachfront parcels and tideland parcels. The tideland parcels were dedicated to the public. The newly formed beachfront lots were limited in depth toward the ocean resulting in a defined development boundary. The beachfront lots that were not subject to the settlement agreement extend farther toward the ocean, some beyond the mean high tide line. The subject parcel is one such lot and extends into the water, 250 feet in depth. There are several more lots in the area that extend to the water. Such lots pose a significant threat to coastal resources if no policy is in place to limit seaward development. The proposed development is located on a beachfront lot and will be subject to some inherent potential hazards. Oxnard Shores is a beach that has displayed significant oscillation and suffered severe beach erosion during the El Niño events in the late 1970s and early 1980s, which resulted in wave uprush all the way up onto Capri Way, the eastern border of the subject site. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. The proposed development will extend the residence fifty feet further seaward and will serve to enhance the risk posed by the

³ Dean, Robert G. and Robert Dalrymple (1984) *Water Wave Mechanics for Engineers and Scientists*, Prentice-Hall, Inc. New Jersey.

hazards of oceanfront development. In addition, the project creates cumulative impacts by establishing a precedent for future development on similar unrestricted lots to extend further seaward to this development line into an area subject to frequent wave action. Therefore, for those reasons described, the proposed project does not conform to the hazards policies in the City's LCP.

B. PUBLIC ACCESS AND RECREATION

The City of Oxnard Coastal LUP incorporates Sections 30210 and 30211 of the Coastal Act concerning public access and recreation. Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 states:

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

The City's Coastal Zoning Ordinance (CZO) Policy 2 of Section 37-3.9.7 (Lateral Access) states that:

Lateral accessways shall be located on all waterfront land to provide continuous and unimpeded lateral access along the entire reach of the sandy beach area or other usable recreational shoreline.

Further, the City's LUP states:

Portions of the beachfront property [in the Oxnard Shores Neighborhood] are subject to periodic flooding. This flooding primarily occurs in response to major offshore storms, which would limit access at those times.

There are 124 subdivided oceanfront lots from Fifth Street to Amalfi Way. Twenty-seven of these are developed. Most of the units are built on pilings or have heavy rock revetments for protection from wave run-up and beach erosion. Clearly, these few scattered dwellings do not block access to the beach. If full buildout of all 124 lots occurs, access would be restricted ... Lateral access to the beach is presently interrupted at high tides by the existing revetments.

The City's approval of the project includes a condition requiring the dedication of a seaward portion of the subject lot to the City for public access and recreational use. However, the City's LUP documents a time when access along the beach was inhibited during high tides due to the location of residential development and associated shoreline protective devices. The seaward extension of the proposed addition would encroach on a significant portion of sandy beach and would impact lateral access during similar conditions as those described in the LUP. Public access currently exists adjacent to the property extending 38 feet further landward than would exist on the subject site as a result of the proposed development and imposed dedication. The significant seaward encroachment of the proposed development in relation to sea level rise, as described in detail in the section above, further enhances potential for future impacts to public

access given this beach will narrow in the future due to sea level rise. Additionally, this development proposal contains implications for other future development proposals on lots similar to the subject lot, which extend out to the ocean with no established development boundary, thus, the proposed project will set a precedent for future proposals to extend development seaward out to this development line, which does not minimize impacts on public access and recreation. As the project would have adverse individual and cumulative impacts on public access and recreation, the project as approved does not conform to the access policies of the City's LCP.

C. VISUAL RESOURCES

The City of Oxnard Coastal LUP incorporates Section 30251 of the Coastal Act, which states that:

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 land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Local Coastal Policy 37 states:

All new development in the coastal zone shall be designed to minimize impacts on the visual resources of the area.

As noted, the proposed addition would encroach fifty feet further seaward than the existing residence onto the sandy beach and extend thirty-eight feet further seaward than the existing residence on the adjacent lot. The substantial seaward extension of this structure and future structures to this development line onto sandy beach creates an adverse visual impact by impeding views along the shoreline. Thus, the significant seaward encroachment of this project will both individually and cumulatively adversely impact public views along this beach, which is not consistent with visual resource policies of the City's LCP.

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.)

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

SECTION V. Certification

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

Signed: *Sean J. Wen*
Appellant or Agent

Date: Dec. 17, 2002

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

Signed: _____

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

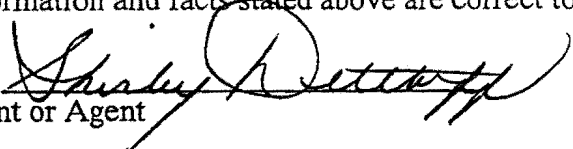
Page 3

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Appellant or Agent

Date: Dec. 17, 2002

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

Signed: _____

Date: _____

STATE OF CALIFORNIA—THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., 2ND FLOOR
VENTURA, CA 93001
(805) 641-0142

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED

PETE WILSON, Governor



DEC 17 2002

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

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

SECTION I. Appellant(s)

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

DR. WILLIAM H. HENRY JR.

1205 CAPRI WAY

OXNARD, CA 93035-1908

Zip

(805) 984-4138

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: OXNARD, CA

2. Brief description of development being appealed: CDP APPLICATION # 02-400-3
1211 CAPRI WAY, OXNARD
(50' HOME ADDITIONAL EXTENDING TOWARD OCEAN)

3. Development's location (street address, assessor's parcel no., cross street, etc.): 1211 CAPRI WAY, OXNARD,
CA, 93035

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: CDP #02-400-3

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-4-OXN-02-249

DATE FILED: 12/17/02

DISTRICT: _____

H5: 4/88

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

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

a. Planning Director/Zoning Administratorc. Planning Commissionb. City Council/Board of Supervisorsd. Other _____6. Date of local government's decision: 11/7/027. Local government's file number (if any): CDP # 02-400-3SECTION 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:

ROBERT BARUCK
18007 JAYHAWK DR
PENNY VALLEY, CA 95946

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) DR. WILLIAM H. HENRY JR.
1200 CAPITOL WAY
OXFORD, CA 93035-1808(2) MITCHELL W. EBERS, ESQ
1109 CAROL WAY
OXFORD, CA 93035(3) DAV WOLFUS
1045 HANDBLAY REACH ROAD
OXFORD, CA 93035(4) NORMOND LINDER
1455 MARINE WAY
OXFORD, CA 93035

SEE LIST ATTACHED

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.

CONTINUATION SHEET, SECTION III, PART B.

● PETE FLEHING

1077 HAWAIIAN BEACH ROAD
OXNARD, CA 93035

THOMAS PHILLIPS

1201 CAPRI WAY
OXNARD, CA 93035

PAT SAJAK

1151 CAPRI WAY
OXNARD, CA 93035

MIKE HARLIN

● 1245 CAPRI WAY
OXNARD, CA 93035

SAM JACOBSON

1069 HAWAIIAN BEACH RD
OXNARD, CA 93035



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

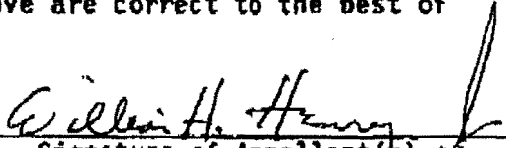
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

INCONSISTENT WITH OXNARD LCP AND
THE COASTAL ACT. INCONSISTENT WITH
PAST PRACTICE OF ROTH OXNARD
AND COASTAL COMMISSION. STRONGLINE
NOT APPLIED, ALLOWING FOR INCREMENTAL
ENCROACHMENT OF STRUCTURES FURTHER
TOWARD BEACH THAN EXISTING ADJACENT
STRUCTURES. (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/our knowledge.


Signature of Appellant(s) of
Authorized Agent

Date 12/17/02

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 _____

CONTINUATION SHEET, PG 3 REASONS FOR APPEAL.

THERE WAS STORM WAVE RUNUP UNDER THE EXISTING 1211 CAPRI STRUCTURE TODAY AND YESTERDAY, WHICH WOULD HAVE BEEN MUCH WORSE HAD THE STRUCTURE EXTENDED 50' TO THE WEST. THE EXISTING 1211 RESIDENCE WAS ONCE DAMAGED BY WAVE ACTION SO BAD IT HAD TO BE REBUILT. WAVE RUNUP REACHED CAPRI WAY AND MANOLAY BEACH ROAD IN SOME SECTIONS TODAY.

HORIZONTAL BEACH ACCESS WOULD CLEARLY BE DIMINISHED BY THE PROPOSED CONSTRUCTION AND THAT WHICH WOULD SURELY FOLLOW. THIS INROAD WOULD REPRESENT A TRAGEDY TO AN OTHERWISE STABLE BEACH ENVIRONMENT.

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.)

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.

William H. Henry

Signature of Appellant(s) or
Authorized Agent

Date 12/17/02

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

Section VI. Agent Authorization

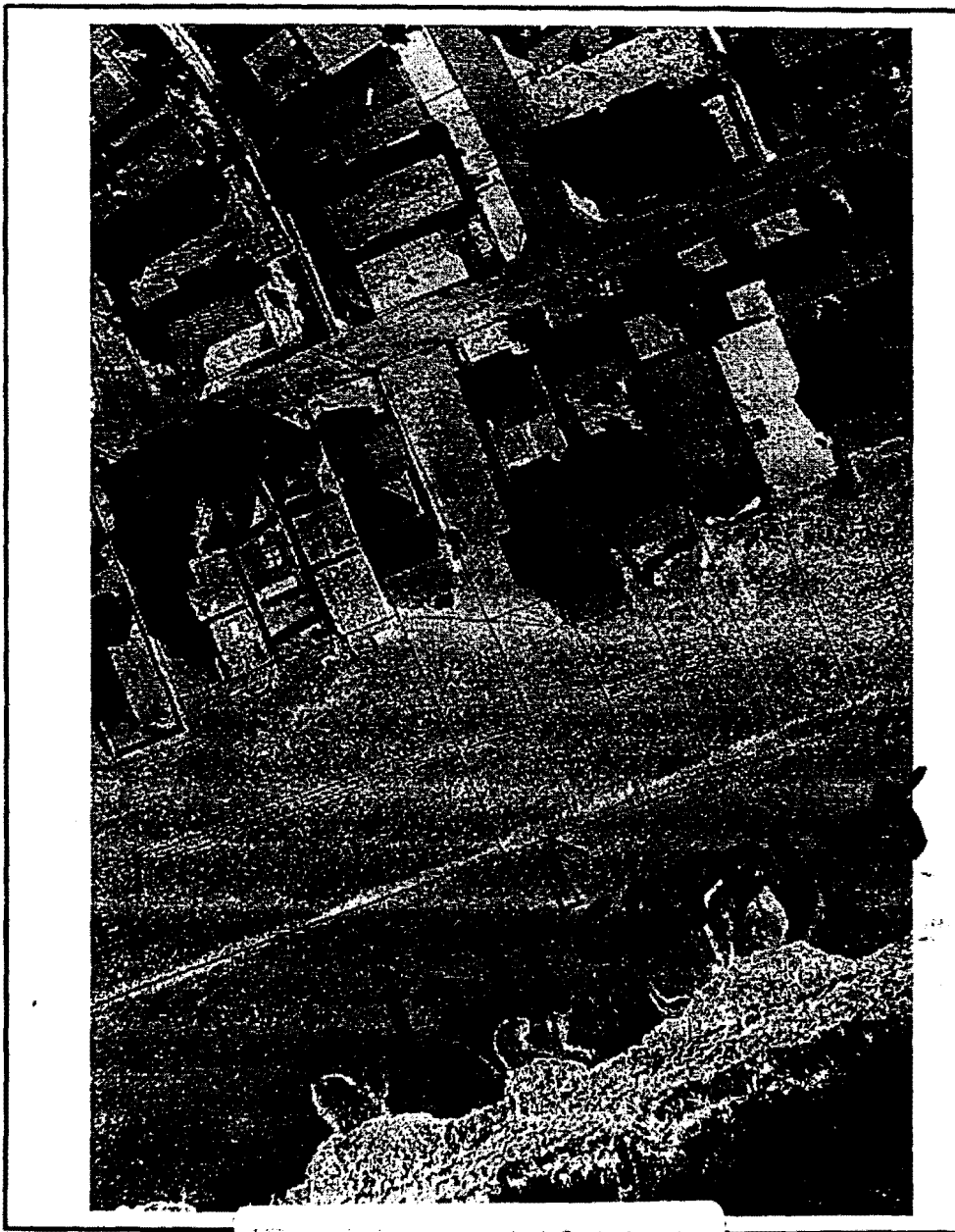
I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

ESRI ArcExplorer 2.0

Map Title



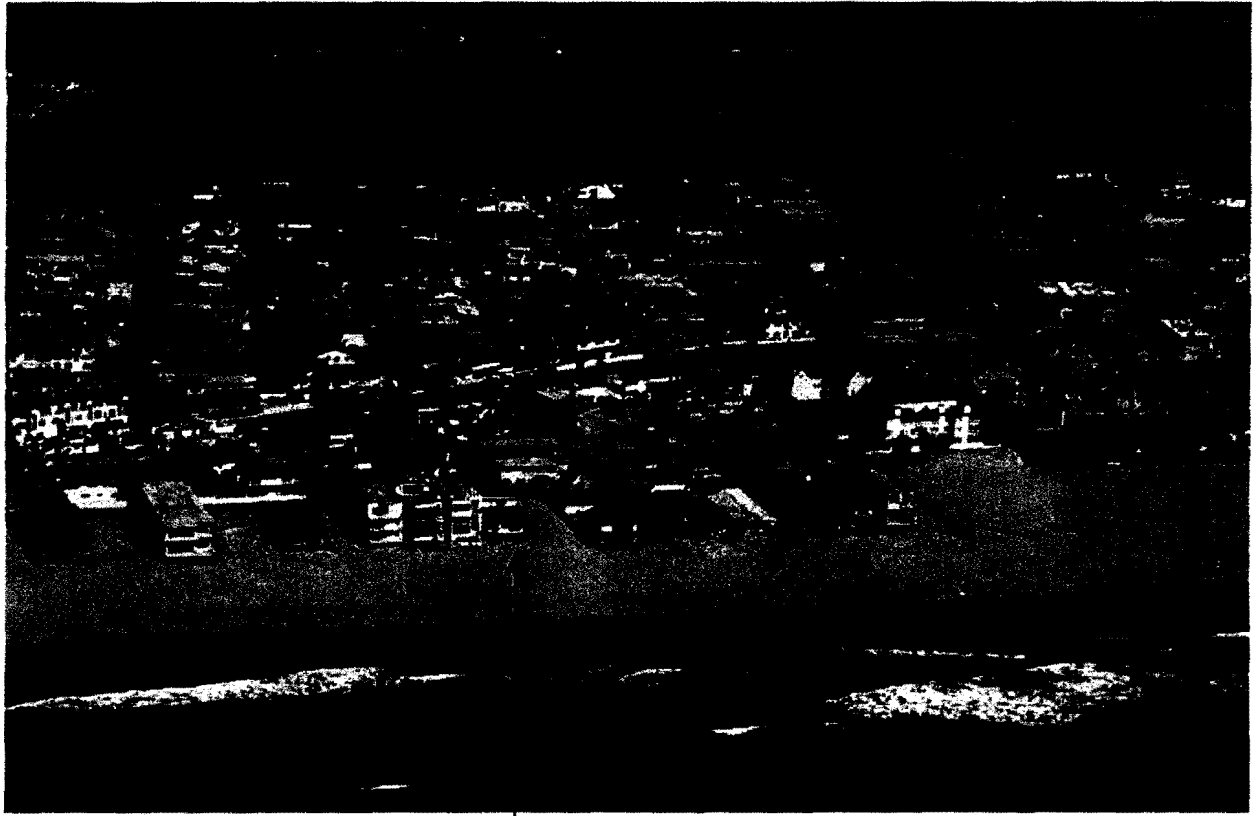
parcline1



Monday, Jul 8 2002

EXHIBIT NO. 4
A-4-OXN-02-249
AERIAL MAP





1211 Capri Way

*EXHIBIT 5
A-4-OXN-02-249
AERIAL PHOTO, OXNARD SHORES*



Existing residence @ 1211 Capri Way Existing residence @ 150 feet from Capri Way



EXHIBIT 6
A-4-oxn-02-249
VIEW SOUTH, CENTER: 1211 CAPRI WAY

