

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY

Filed: 4/14/03
49th Day: 6/2/03
Staff: K. Kemmler
Staff Report: 7/23/03
Hearing Date: 8/6-8/03
Commission Action:

**STAFF REPORT: DE NOVO**

LOCAL GOVERNMENT: City of Oxnard

LOCAL DECISION: Approval with conditions

APPEAL NO.: A-4-OXN-03-035

APPLICANT: David & Cheryl Smith

AGENT: Roy Milbrandt, Architect

APPELLANTS: Ron & Kelly Blanchette

PROJECT LOCATION: 1081 Mandalay Beach Road (Oxnard Shores), Oxnard (Ventura Co.)

PROJECT DESCRIPTION: Construction of a new three story, 4,300 square foot single family residence with an attached 720 sq. ft. garage and a deck on a 4,613 sq. ft. beachfront parcel.

SUBSTANTIVE FILE DOCUMENTS: City of Oxnard Local Coastal Program; California Coastal Act; California Coastal Commission Regulations; Oxnard City Code; City of Oxnard Staff Report PZ 02-400-15 dated March 25, 2003; City of Oxnard Notice of Final Decision CDP no. PZ 02-400-15 dated March 25, 2003; "Wave Runup Study," Skelly Engineering, November 2002.

Summary of Staff Recommendation

Staff recommends that the Commission **approve** the proposed project with Three Special Conditions, including (1) compliance with City of Oxnard's conditions, (2) no future shoreline protective device and (3) deed restriction. On May 9, 2003, the Commission found that a substantial issue exists with respect to this project's conformance with the certified City of Oxnard's Local Coastal Program (LCP) and accepted jurisdiction over the coastal development permit.

I. STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the motion below. A yes vote results in approval of the project as modified by the conditions below. The motion passes only by an affirmative vote of a majority of the Commissioners present.

MOTION: *I move that the Commission approve Coastal Development Permit Number A-4-OXN-03-035 subject to the conditions below and that the Commission adopt the following resolution.*

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development will be in conformance with the provisions of the City of Oxnard's certified Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of the California Coastal Act of 1976, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).

II. STANDARD CONDITIONS

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

III. SPECIAL CONDITIONS

1. City of Oxnard's Conditions

The applicant shall comply with all of the City's conditions attached to the City of Oxnard approval of CDP no. PZ 02-40-1 as listed in Resolution No. 02-40-1 (Exhibit 1 of this staff report). Prior to the issuance of Coastal Development Permit A-4-oxn-03-035, the applicant shall submit evidence of such condition compliance for the review and approval of the Executive Director.

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

2. No Future Shoreline Protective Device

- A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit A-4-oxn-03-035 including, but not limited to, the construction of the residence, garage, driveway/patios and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence, garage, driveway/patio areas, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Deed Restriction Condition

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and

conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. PROCEDURAL HISTORY

On March 25, 2003, the City Development Services Director approved a coastal development permit (PZ 02-400-15) with conditions. The City's notice of final action was received in the Commission's South Central Coast office on April 1, 2003. See Exhibit 1 for City's findings and conditions on the project.

The Commission's ten-working day appeal period for this action began on April 2, 2003 and concluded at 5:00 pm on April 15, 2003. An appeal from Ron & Kelly Blanchette was received during the appeal period and the appeal was filed on April 14, 2003 (Exhibit 2). This appeal contends that the approved project is not consistent with policies and provisions of the certified Local Coastal Program with regard to a stairway protruding into a 5 ft. side yard setback, which results in adverse impacts to public access to the beach and visual resources (see Section D. below for further discussion).

On May 9, 2003, the Commission found that a substantial issue existed in terms of the project's conformance with the certified City of Oxnard LCP and accepted jurisdiction over the coastal development permit for the project. Staff has met with the applicant's representative and City staff to discuss the coastal issues raised in the appeals. Staff has also had multiple conversations with the appellants.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION & BACKGROUND

CITY APPROVED PROJECT

As stated previously, on March 25, 2003 the City of Oxnard Development Services Director approved a coastal development permit (PZ 02-400-15) for the construction of a new three story, 4,300 square foot single family residence with an attached 720 sq. ft. garage and a deck on a 4,613 sq. ft. beachfront parcel located at 1081 Mandalay Beach Road in the Oxnard Shores neighborhood. See Exhibit 1 for City approved plans.

PROJECT LOCATION

The subject site is a beachfront parcel located along Mandalay Beach Road, a public road in the Oxnard Shores neighborhood within the City of Oxnard. The site is an undeveloped, 4,613 sq. ft. lot that is approximately 32 feet wide along the shoreline and 142 feet on the northern border and 147 on the southern border feet long toward the ocean. The subject site is an infill site within the existing residential beach community, and is bordered by single family residences of similar character located to the north and south. The nearest vertical public accessways to

the beach are located approximately 64 feet to the north and 177 feet to the south of the subject site. There is existing lateral public access and recreation area seaward of the site that extends approx. 998 feet along the beach and additional dedicated public access and recreation areas exist to the north and south along this stretch of beach.

BACKGROUND

Commission staff prepared a request to open and continue the public hearing to determine whether a substantial issue exists with respect to the grounds on which the appeal has been filed for the May 9, 2003 hearing. However, the Commission is required pursuant to §30621 of the Coastal Act, to set a hearing on an appeal no later than 49 days after the date on which the appeal is filed with the Commission. An appeal of the subject decision was filed with the Commission on April 14, 2003. The only available Commission hearing within 49 days is the May 6-9, 2003 hearing. As such, the Commission found that a substantial issue exists in terms of the project's conformance with the certified City of Oxnard LCP and accepted jurisdiction over the coastal development permit for the project.

B. APPELANT'S CONTENTIONS

The appeal filed with the Commission by Ron & Kelly Blanchette is 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 public access and visual resources. The appeals assert that the approved stairway on the side of the residence, which encroaches 4 ft. 8 in. into the 5 ft. side yard setback adversely impacts public access to the shoreline and public views from the road.

Section 34-20 of the Oxnard City Code allows:

Uncovered or enclosed porches, platforms or landing places, which do not extend above the level of the first floor of the building may extend into any required front, side or rear yard not more than six (6) feet; provided, however, that an openwork railing, not more than forty-two (42) inches in height may be installed or constructed on any such porch, platform or landing place.

The impacts of the proposed development on public access and visual resources are addressed below.

C. CONSISTENCY WITH THE CITY OF OXNARD LOCAL COASTAL PROGRAM AND THE COASTAL ACT

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project site). In this case, the proposed development has been previously appealed to the Commission. The Commission found, during a public hearing on May 9, 2003, that there is a substantial issue with respect to the project's conformity to the policies contained in the certified LCP and the public access policies of the Coastal Act.

As a "de novo" application, the standard of review for the proposed development is, in part, the policies, standards, and provisions of the City of Oxnard Local Coastal Program (LCP). In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, such as the project site, must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act regarding public access and recreation.

1. PUBLIC ACCESS AND RECREATION

The City of Oxnard Coastal Land Use Plan (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.

The subject site is a beachfront parcel located in the Oxnard Shores neighborhood, which was the subject of litigation and a subsequent settlement agreement that created a redivision of property along this stretch of beach changing the configuration of most of the lots and dedication of large portions of the beach and several vertical accessways to the shoreline from the street to the State of California for the purpose of public access and recreation. The agreement allowed for development up to the seaward property boundary of the newly configured lots abutting public lands, as well as some modifications in development standards for narrow lots (less than 33 feet wide). As noted above, the nearest vertical public accessways to the beach are located approximately 64 feet to the north and 177 feet to the south of the subject site. In addition, there is a large lateral public access and recreation area seaward of the site that extends approx. 998 feet along the beach and additional dedicated public access and recreation areas that exist to the north and south along this stretch of beach. Therefore, the Commission finds that there is adequate vertical access nearby and the proposed development will not adversely impact public access or recreation, and thus, is consistent with the coastal access and recreation policies of the City's LCP and the Coastal Act.

2. SHORELINE PROCESSES AND HAZARDS

The City of Oxnard Coastal LUP incorporates Sections 30235 of the Coastal Act concerning shoreline protective structures. Section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

The City of Oxnard Coastal LUP also 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.

In addition, Local Coastal Policy 13 states:

The construction of shoreline structures such as, but not limited to, retaining walls, groins, revetments and breakwaters shall not be permitted except where absolutely necessary to protect public safety, or to preserve public beaches, marinas or structures. All permitted structures shall be designed to minimize adverse impacts, including those on both lateral and vertical access. Bulkheads shall be permitted in areas dredged as inland canals.

Further, the LUP states:

Accelerated beach erosion and storm wave run-up along Oxnard Shores has threatened the Mandalay Beach Road. As a result, some of the homes have been elevated on "pilings," while rip rap seaways have been placed in front of other for protection.

Additionally, Section 37-3.5.2 of the City's CZO states:

All development shall ensure 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 the coast.

Past Commission review of shoreline residential projects has shown that such development results in potential individual and cumulative adverse effects to coastal processes, shoreline sand supply, and public access. Shoreline development, if not properly designed to minimize such adverse effects, may result in encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas. The proposed development is located on a beachfront lot and will be subject to some inherent potential hazards.

The City has reviewed and approved the project as currently proposed and the City as well as the applicant are aware of the risk associated with development on a sandy beach. The

proposed residence will be constructed on a caisson/grade beam foundation and the applicant's coastal engineering consultant's recommendations do not include any shoreline protection devices to protect any portion of the proposed residence.

In the case of the proposed project, the applicant is not proposing the construction of any shoreline protective device to protect the proposed development. Though the proposed development will be located and designed such that it will not be subject to wave uprush or over-topping under normal tidal conditions, past winter storms, including the winter storm seasons of 1981 and 1983 resulted in severe erosion of the beach and caused damage to several residences located in the Oxnard Shores area. It is not possible to completely predict what conditions the proposed residence may be subject to in the future. The Commission notes that construction of a shoreline protective device on the project site to protect the proposed development would result in potential adverse effects to coastal processes, shoreline sand supply, and public access.

Shoreline protective devices individually and cumulatively affect coastal processes, shoreline sand supply, and public access by causing accelerated and increased erosion on the adjacent public beach. Adverse impacts resulting from shoreline protective devices may not become clear until such devices are constructed individually along a shoreline and they eventually affect the profile of an entire beach. Changes in the shoreline profile, particularly changes in the slope of the profile, caused by increased beach scour, erosion, and a reduced beach width, alters usable beach area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the physical area of public property available for public beach use. Additionally, through the progressive loss of sand caused by increased scour and erosion, shore material is no longer available to nourish the beach and seasonal beach accretion occurs at a much slower rate. Oxnard Shores has been characterized as an oscillating beach. However, the Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. As the natural process of beach accretion slows the beach fails to establish a sufficient beach width, which normally functions as a buffer area absorbing wave energy. The lack of an effective beach width can allow such high wave energy on the shoreline that beach material may be further eroded by wave action and lost far offshore where it is no longer available to nourish the beach. The effect of this on public access along the beach is again a loss of beach area between the mean high water line and the actual water.

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.

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.

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.

Shoreline protection devices also directly interfere with public access to tidelands by impeding the ambulatory nature of the mean high tide line (the boundary between public and private lands) during high tide and severe storm events, and potentially throughout the entire winter season. The impact of a shoreline protective device on public access is most evident on a beach where wave run-up and the mean high tide line are frequently observed in an extreme landward position during storm events and the winter season. As the shoreline retreats landward due to the natural process of erosion, the boundary between public and private land also retreats landward. Construction of rock revetments and seawalls to protect private property fixes a boundary on the beach and prevents any current or future migration of the shoreline and mean high tide line landward, thus eliminating the distance between the high water mark and low water mark. As the distance between the high water mark and low water mark becomes obsolete the seawall effectively eliminates lateral access opportunities along the beach as the entire area below the fixed high tideline is inundated. The ultimate result of a fixed tideline boundary which would normally migrate and retreat landward, while maintaining a passable distance between the high water mark and low water mark overtime, is a reallocation of tideland ownership from the public to the private property owner.

The Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed project, would not be required by Section 30235 of the Coastal Act. Construction of a shoreline protective device to protect a new residential development would conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. In addition, the construction of a shoreline protective device to protect new residential development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device.

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

As described in detail above, shoreline protective devices constructed along the sandy beach at the project site have the potential to adversely impact shoreline processes and public access. Additionally, construction of a shoreline protective device to protect the proposed development would be inconsistent with Sections 30235 and 30251 of the Coastal Act and Section 37-3.5.2 of the City's CZO. Therefore, to ensure that the proposed project is consistent with those Sections, and to ensure that the proposed project does not result in future adverse effects to coastal processes and public access, **Special Condition No. Two (2)** prohibits the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, garage, driveway, etc.

Furthermore, **Special Condition No. Three (3)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, is consistent with the hazard and shoreline processes 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 in the City staff report, the proposed development is consistent with the character of the surrounding area as illustrated in photos submitted by the City of numerous residences in the Oxnard Shores neighborhood. Additionally, the LCP does not designate Mandalay Beach Road as a scenic public viewing area. Thus, the Commission finds that the project as proposed is consistent with visual resource policies of the City's LCP.

4. CONCLUSION

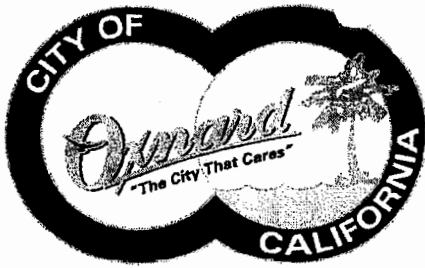
For the reasons discussed above, the proposed development, as conditioned, is consistent with the LCP and the coastal access and recreation policies of the Coastal Act. **Special Condition No. One (1)** requires the applicant to comply with all of the special conditions imposed by the City attached to the City of Oxnard approval of CDP no. PZ 02-400-15 as listed in Resolution no. 02-400-15 and submit evidence of such compliance prior to the issuance of this coastal

development permit. Further, to minimize impacts to shoreline processes and public access and recreation, **Special Condition No. Two (2)** prohibits any future shoreline protective device to be constructed to protect the development approved under this coastal development permit. Finally, **Special Condition No. Three (3)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the City of Oxnard's LCP and the Coastal Act.

D. CEQA

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

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 and is the preferred alternative. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



Planning and Environmental Services

**DEVELOPMENT SERVICES DIRECTOR
Staff Report**

TO: Matthew Winegar, Development Services Director
FROM: Adam Denton, Associate Planner
DATE: March 25, 2003
SUBJECT: Planning and Zoning Permit No. 02-400-15
(Coastal Development Permit) Filed by Roy Milbrandt.

1. **Recommendation:** That the Development Services Director approve Planning and Zoning permit 02-400-15, a coastal development permit for the construction of an approximately 4,440 square foot, single family beachfront house, subject to the attached findings and conditions.
2. **Project Description and Applicant:** Planning and Zoning Permit No. 02-400-15 a Coastal Development Permit for the construction of a three story, 4,440 square foot single-family beachfront home in the R-B-F (Beachfront Residential) zone in the Oxnard Shores neighborhood, located at 1081 Mandalay Beach Road, at Breakwayter Way, Tract No. 4380, Lot No. 46. Filed by Roy Milbrandt, 1695 Mesa Verde, Suite 220, Ventura, CA 93003.
3. **Existing Land Use:** Vacant beachfront lot, zoned RBF (Beachfront Residential).
4. **General Plan Land Use Designation and Coastal Plan Policies Conformance:** The 2020 General Plan designation for the site is Low Medium Residential with 8-12 dwelling units per acre. The proposed use of the site is for single-family residence. The proposed development is consistent with the density indicated by the land use designation; therefore, the project is consistent with the City's 2020 General Plan. The project also complies with applicable Coastal Plan Policies.
5. **Environmental Determination:** The project is categorically exempt under Section 15303 of the California Environmental Quality Act Guidelines, "New Construction or Conversion of Small Structures". The project consists of a single-family residence, which is specifically included under this exemption. The proposal does not include any elements that would result in a significant impact on the environment.

6. Surrounding Zoning and Land Uses:

Lot 10

Location	Zoning	Land Use
North	R-BF	Existing Beach House
South	R-BF	Existing Beach House
East	RB-1	Single Family Residential
West	RC	Beach/Ocean

7. Analysis

- a. General Discussion: The proposed single-family residence is located on Lot No. 46 of Tract No. 4380, and is 32 feet wide by approximately 141 feet deep. The proposed development satisfies the standards of the R-B-F zoning designation (Residential Beachfront). Lots less than 33 feet wide are permitted to have dwellings up to three stories, not to exceed 30 feet. Building heights are measured from the lowest horizontal structural member parallel to the shore to the highest peak of the roof. Based on City Code, the top of pile shall be located between +14.0 NGVD (National Geodetic Vertical Datum) and +17.0 NGVD, unless additional height is required based on a wave run up study. In no case shall the building height exceed +47.0 feet above NGVD. The proposed structure has a zero lot line on the north and a five-foot side yard setback on the south side of the property. The adjacent house to the north has the same zero lot line configuration resulting in a five-foot separation between structures.
- b. Relevant Project and Property History, Related Permits: On April 5, 1988, the City Council approved the Oxnard Shores agreement for settlement of litigation. On April 12, 1988, the City Council approved the tentative subdivision map for Tract 4380 and related development agreements for the Oxnard Shores lots. On October 17, 1989, the City Council approved the final map for Tract 4380 establishing the current lot division. Currently, there are two types of beachfront lots, parcels created as a result of the Oxnard Shores settlement agreement and lots that were developed prior to the settlement agreement. Pre-settlement lots typically extend out further seaward and in some cases extend to the ocean.

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, 2 large public beach areas and 9 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-settlement lots require side yard setbacks of 5 feet and limit building heights to two stories. Post-settlement lots are narrower than pre-settlement lots and allow zero lot line development on one side property line and along the beach and building heights up to three stories. These development standards are outlined in the City of Oxnard Coastal Zoning Ordinance.

- b. Lot Location: The site is a beachfront lot located at the intersection of Breakwater Way and Mandalay Beach Road. The property is located within the Oxnard Shores community and is accessed from Mandalay Beach Road.
 - c. Site Design: The site design is consistent with the beachfront neighborhood character. The proposed building footprint occupies approximately 51% of the lot, except for a five-foot setback on the south side of the property and a 20 ft. deep driveway and pedestrian access. Landscaping has been proposed in the areas adjacent to the existing sidewalk and proposed driveway and pedestrian entry path. The landscaping is consistent with the style and plant material used throughout the area.
 - d. Architecture: The proposed building is "French Provincial architecture" which uses stucco wood and stone with decks and architectural projections to add three-dimensional relief to the walls of the structure. The building has stucco and shake shingle finish with varied textures, concrete entry walk, and wood trimmed windows. The driveway is concrete with terracotta tile details. The garage door finish is ornate wood.
8. **Special Recommended Conditions:** Special conditions regarding building on pilings, breakaway panels, mailbox and driveway details, landscaping and compliance with the development agreement have been included in the conditions of approval.
9. **Attached Exhibits:**
- a. Resolution
 - b. Location Map
 - c. Land Use Map
 - d. Zone Map
 - e. Site Plan
 - f. Floor Plans
 - g. Building Elevations

Prepared by: _____

AD

Approved by: _____

MM

RESOLUTION NO. PZ 02-400-15

COASTAL DEVELOPMENT PERMIT NO. PZ 02-400-15, TO CONSTRUCT A 4,440 SQUARE FOOT SINGLE-FAMILY RESIDENCE ON A R-B-F (BEACHFRONT RESIDENTIAL) ZONED LOT, LOCATED AT 1081 MANDALAY BEACH ROAD, TRACT NO. 4380, LOT 46. FILED BY ROY MILBRANDT, 1695 MESA VERDE, SUITE 220, VENTURA, CA 93003.

The Development Services Director of the City of Oxnard has considered an application for a Coastal Development permit for a new 4,440 square foot single family residence filed by Roy Milbrandt, in accordance with Section 37-2.16.3 (1) of the Oxnard City Code,

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,

The Development Services Director 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.

The Development Services Director 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.

The decision of the Development Services Director 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 SPECIAL CONDITIONS

1. Developer shall construct the improvements on driven pilings in accordance with Exhibit 6 of the settlement agreement in Oxnard Shores Oceanfront Lot Owners Association, et al. v. City of Oxnard, et al. (PL/DS)
2. 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)
3. 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)

4. Developer shall provide mailbox detail that is theme-coordinated with the architecture of the building, subject to approval by the Planning and Environmental Services Manager. (PL)
5. Developer shall provide a decorative driveway consisting of a minimum of two contrasting materials. At least one material shall be used as a border on all sides and for interior detail work on the driveway. Different textures or colors of the same material shall be considered as one material (ie. brush and salt finish concrete, or different colored concrete). The driveway finish plan shall be reviewed and approved by the Planning and Environmental Services Manager prior to the issuance of building permits. (PL)
6. Roof construction for a zero lot line condition shall meet all building code requirements and all roof drainage must be conducted on site. Eaves and gutters may not project beyond the property line. (PL)
7. 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)
8. Developer shall not obstruct automobiles and pedestrians on Mandalay Beach Road during construction and maintenance activities.
9. Developer shall be responsible for maintaining the construction site free of litter and the accumulation of construction debris.

DEVELOPMENT SERVICES SPECIAL CONDITIONS

10. Developer shall pay \$379.89 to the City as this parcel's portion of the cost for relocation of fire hydrants and utility poles as required by the subdivision known as Tract 4380. These fees shall be paid prior to the issuance of a building permit. (DS)
11. 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)
12. 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)

13. Developer shall pay to the City \$1.1476 per square foot of 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 floor area as payment for the Citywide utility undergrounding. This fee shall be paid prior the issuance of a building permit. (PL/DS)
14. Driveway shall be designed and constructed in accordance with City Standard Plate No. 115 for "Streets" and plate 318 for "Ways". (DS)
15. 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)
16. 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)

PARKS (LANDSCAPING) STANDARD CONDITIONS

17. Before the City issues building permits or the proposed use is initiated, Developer shall submit two copies of landscape and irrigation plans, along with the appropriate permit application and fees, to the Development Services Division and obtain approval of such plans. (PK/DS, PK-2)
18. Before the City issues a certificate of occupancy, Developer shall install landscape and automatic irrigation systems that have been approved by Parks and Facilities Superintendent. (PK, PK-3)
19. Developer shall maintain landscape planting and all irrigation systems as required by the City Code and as specified by this permit. Failure of Developer to do so will result in the revocation of this permit and initiation of legal proceedings against Developer. (PK, PK-4)
20. Before the City issues a certificate of occupancy, Developer shall provide a watering schedule to the building owner or manager and to the Parks and Facilities Superintendent. The irrigation system shall include automatic rain shut-off devices, or instructions on how to override the irrigation system during rainy periods. (PK, PK-5)
21. All trees planted or placed on the project property by Developer shall be at least 24-inch-box size. All shrubs and vines shall be at least five-gallon size, except as otherwise specified by this permit. (PK, PK-6)

PARKS SPECIAL CONDITIONS

22. The irrigation system shall include rain shut-off sensor device as a water conservation measure. The device shall be a part of the irrigation plan submittal.
23. Landscaping shall contain 2 Washintonia Robusta Palms each with a 12' sized brown trunk and colorful groundcover and shrubs.

FIRE SAFETY STANDARD CONDITIONS

24. 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*)
25. 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*)
26. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, *F-6*)
27. Developer shall install a carbon monoxide detector on each level of the residence in accordance with the manufacturers specifications. It shall be interconnected and hardwired with a battery backup. (FD, *F-17*)

PLANNING STANDARD CONDITIONS

28. The permit is granted for the property as described in the application and shall not be transferable from one parcel to another. (PL)
29. This permit is granted for the plans dated January 25, 2003, ("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*)
30. 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)

31. 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)
32. 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)
33. 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)
34. 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)
35. 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)
36. 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)
37. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit. (PL/DS)
38. 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)
39. 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)

40. Prior to the issuance of a building permit, a reproduction of all conditions of this permit approval as adopted by resolution of the Coastal Hearing Officer 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)
41. 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)
42. Developer shall provide to the Planning Division, prior to the issuance of building permits, a 100-foot scale site plan of the project and the project site plan on disk (in DXF format) as approved by the Planning Commission for the purposes of updating the City base maps. (PL)
43. 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)
44. 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)
45. 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)
46. 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)
47. Automatic garage door openers shall be provided for all garages. (PL/B)
48. Storage areas for individual trash enclosures shall be provided within garage, patio, yard or storage area. (DS)

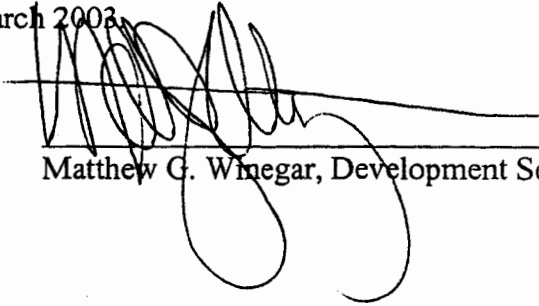
49. Garages closer than 23 feet to the front property line shall have sectional roll-up garage doors. (PL/B, *PL-43*)

DEVELOPMENT SERVICES STANDARD CONDITIONS

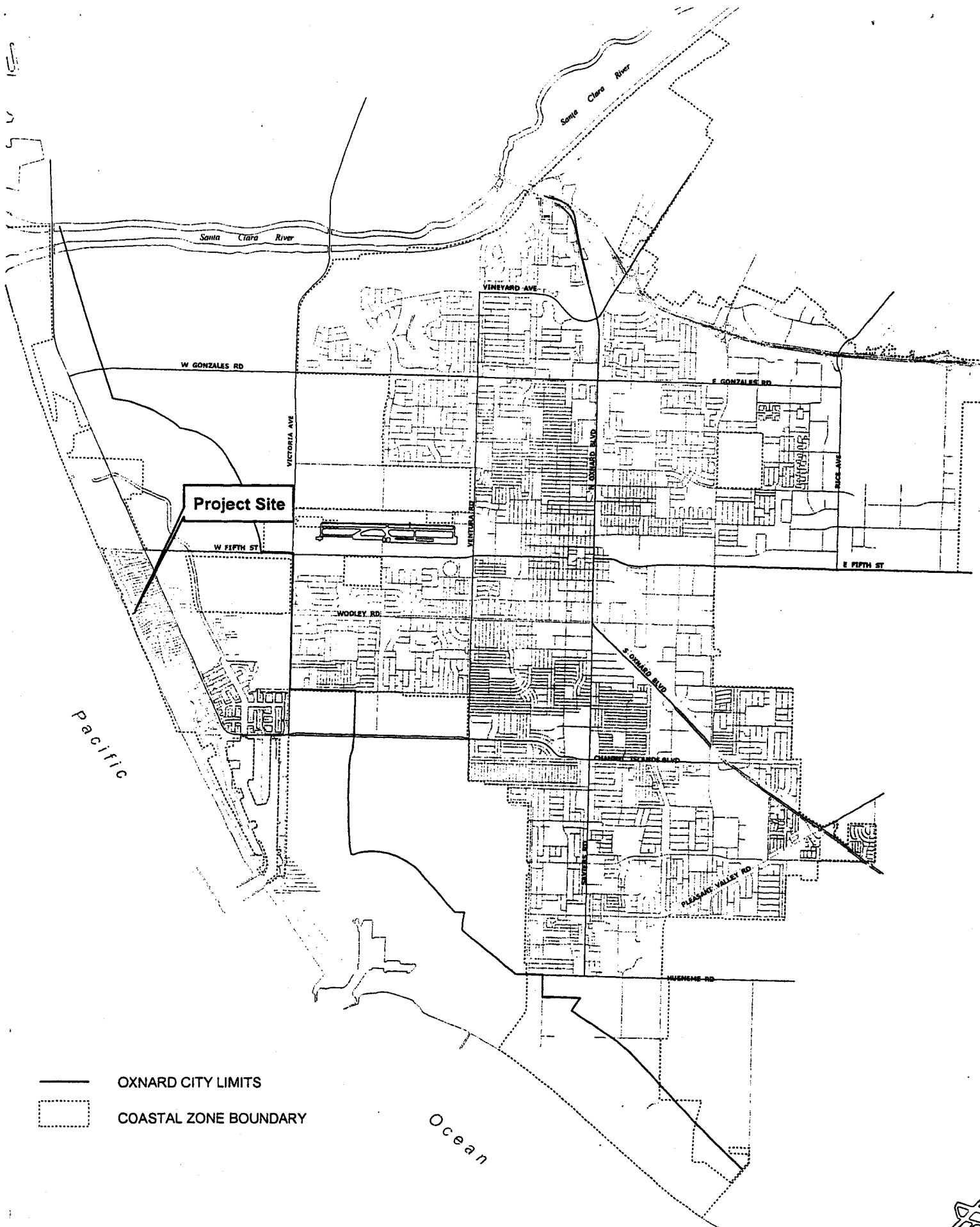
50. Developer shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at the time the City issues building permits. (DS, *DS-1*)
51. Developer shall protect building pads from inundation during a 100-year storm. (DS, *DS-5*)
52. Developer shall remove and replace all improvements that are damaged during construction. (DS, *DS-6*)
53. 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*)
54. 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*)
55. 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*)
56. Developer shall pay the cost of all inspections of on-site and off-site improvements. (DS, *DS-22*)
57. 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*)

58. 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)
59. Developer shall dispose of sewage and solid waste from the project by the City's wastewater and solid waste systems. (DS, DS-38)
60. 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)
61. 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)
62. 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)
63. 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)

PASSED AND ADOPTED by the Development Services Director of the City of Oxnard on this 25th day of March 2003.



Matthew G. Winegar, Development Services Director



- OXNARD CITY LIMITS
- - - COASTAL ZONE BOUNDARY



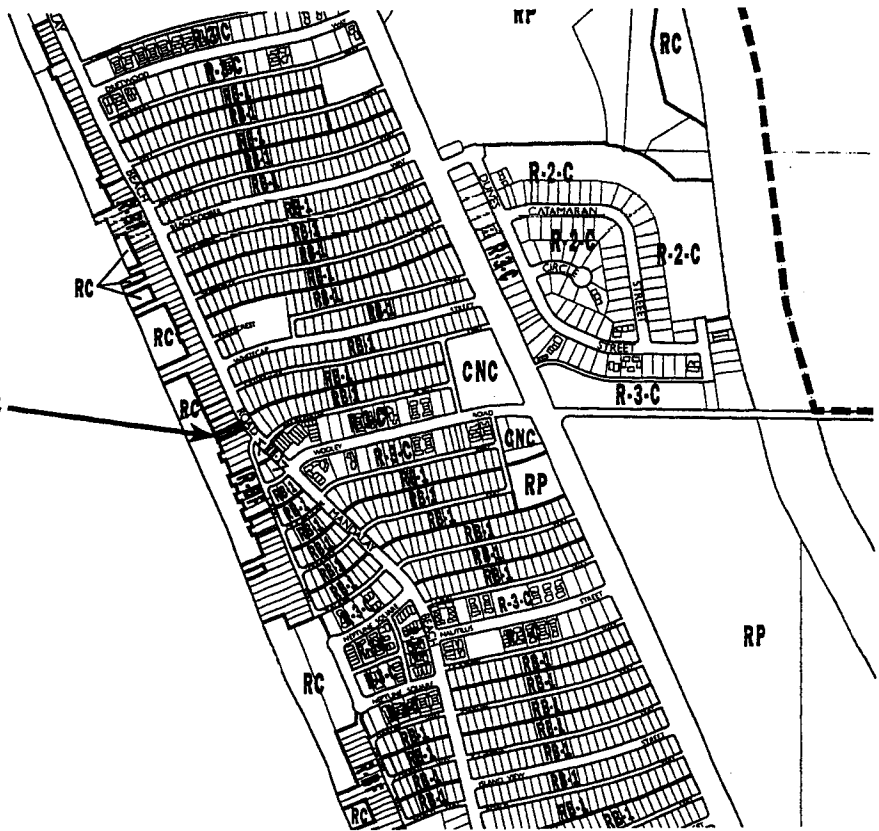
Planning and Environmental Services



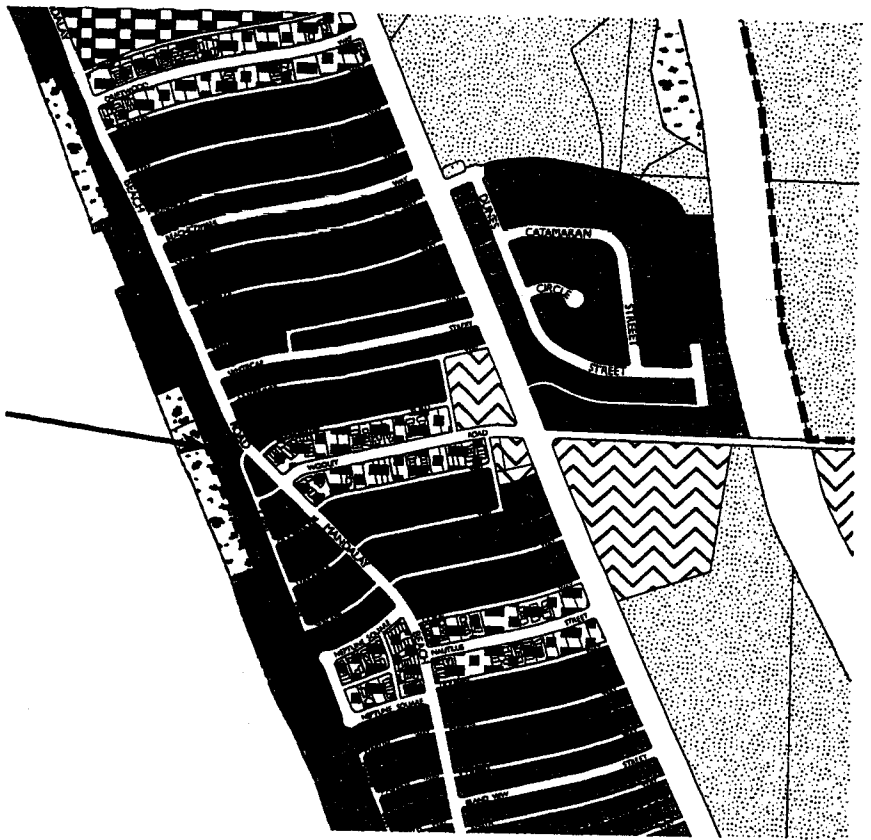
VICINITY MAP

PZ 02-400-
February 26, 20







Project Site



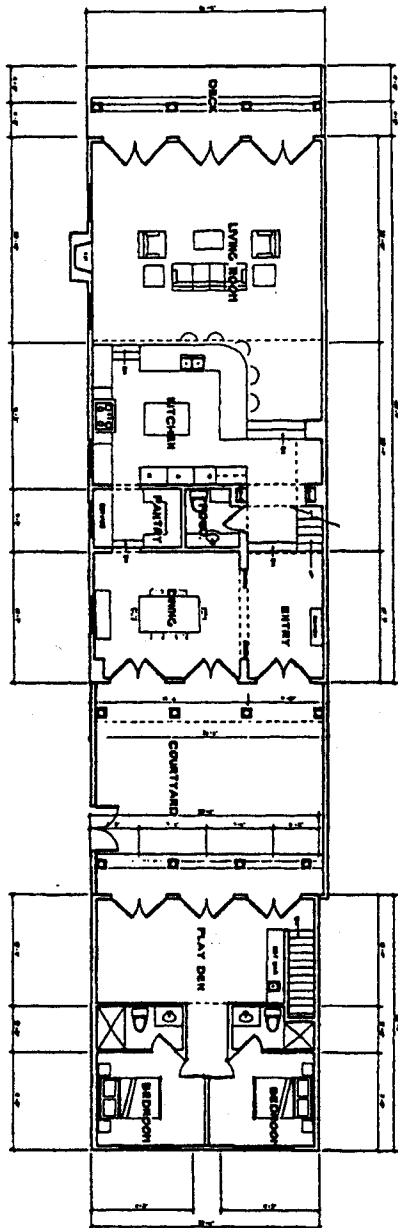
Project Site



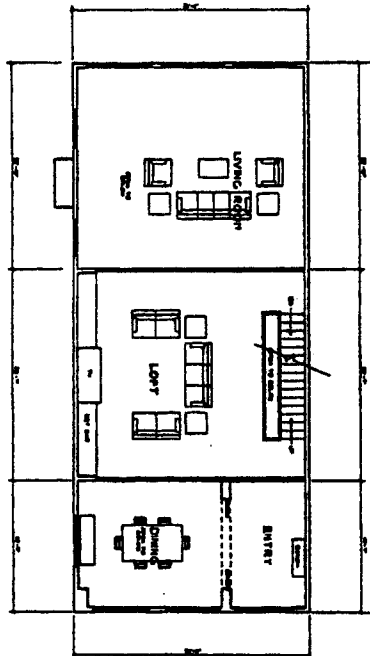
2020 General Plan Designations

-  Low Medium: 8-12 D.U./Ac.
-  High: 19-30 D.U./Ac.
-  Factory Built: 1-7 D.U./Ac.
-  Visitor-Serving Commercial
-  Miscellaneous Open Space
-  Park

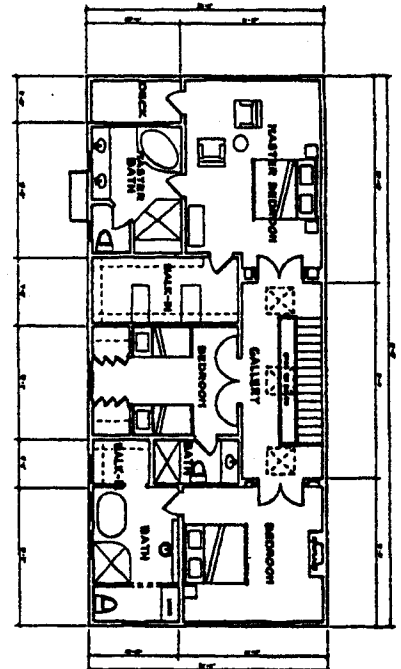
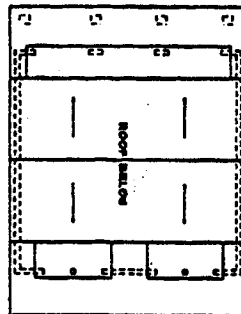




FIRST FLOOR PLAN
Scale 1/8" = 1'-0"



LOFT PLAN
Scale 1/8" = 1'-0"



SECOND FLOOR PLAN
Scale 1/8" = 1'-0"

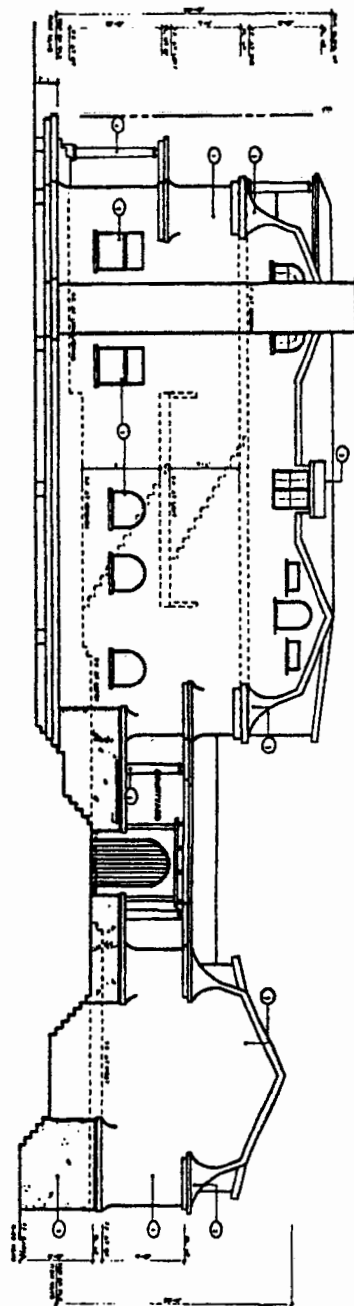
Sheet	2
Project	1495 Mesa Verde Ave. Suite # 200
Client	Ventura, CA 93003
Architect	Phone (805) 634-0186

Ray McManis, Architect
1495 Mesa Verde Ave. Suite # 200
Ventura, CA 93003
Phone (805) 634-0186

South Residence
1081 Mandelay Beach Road
Oxnard, CA

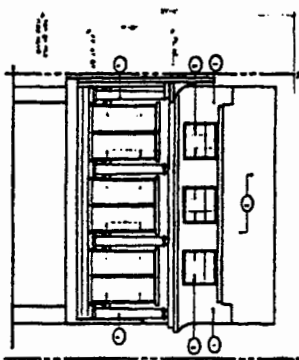
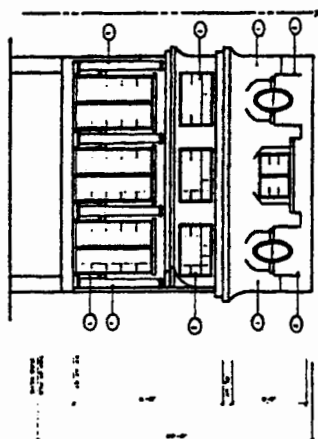
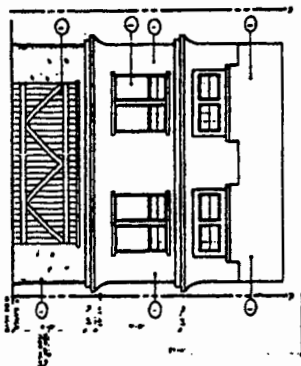
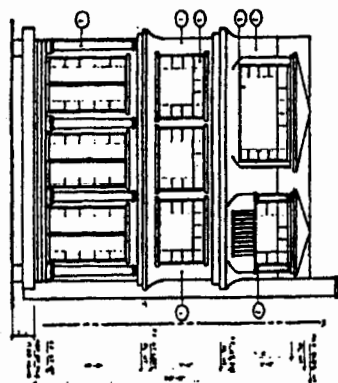
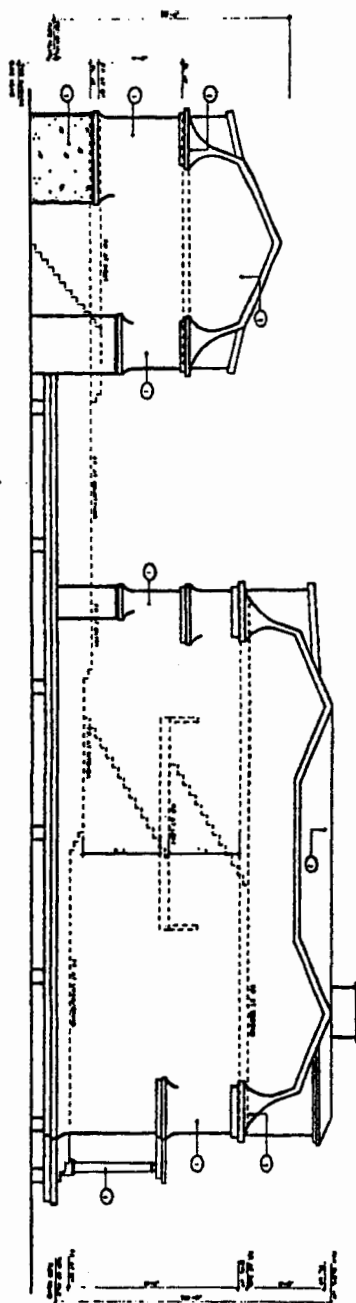
FLOOR PLANS

Sheet	2
Project	1495 Mesa Verde Ave. Suite # 200
Client	Ventura, CA 93003
Architect	Phone (805) 634-0186



ELEVATION NOTES

- ① Very European Contemporary
- ② Address? Bougainville and Italy
- ③ Material? Concrete and metal panels
- ④ Materials, like stone
- ⑤ Very simple white & black
- ⑥ Concrete Column
- ⑦ Painted stone



CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT



RECEIVED

APR 14 2003

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

SECTION I. Appellant(s)

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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

RON AND KELLY BLANCHETTE
26626 BROOKS CIRCLE
STANSON RANCH, CA 91381 (661) 222-9370
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF OXNARD COMMUNITY DEVELOPMENT DEPT.

2. Brief description of development being appealed: SEE ATTACHMENT I

3. Development's location (street address, assessor's parcel no., cross street, etc.): 1081 MANDALAY BEACH RD
OXNARD, CA 93035

4. Description of decision being appealed: PLAN # 02-40-15
+ PERMIT

a. Approval; no special conditions: _____

b. Approval with special conditions: _____

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-0XN-03-035

DATE FILED: 4/14/03

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 Administrator c. ☐ Planning Commission
b. ☐ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: _____

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

ROY MILBRANDT
1695 MESA VERDE HUE # 220
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) JOHN KENDIG
1059 MANDALAY BEACH RD
OXNARD, CA 93035
- (2) BARBARA NICKELSON
1040 MANDALAY BEACH RD
OXNARD, CA 93035
- (3) DANIEL WOLFUS
10350 WILSHIRE BLVD UNIT 1604
LOS ANGELES, CA 90024
- (4) _____

SECTION IV. Reasons Supporting This Appeal

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

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

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

See Attachment II

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.

Kelly Marie Brachette
Signature of Appellant(s) or
Authorized Agent

Date

4/12/03

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 _____

ATTACHMENT I

SECTION II

THIS THREE STORY HOUSE HAS A FIVE FOOT SET BACK ON ONE SIDE, THE SET BACK IS TO ALLOW ACCESS TO THE BEACH, THE BUILDER PLANS TO BUILD A FOUR FT EIGHT INCH WIDE STAIRWAY IN THIS FIVE FOOT EASEMENT, THEREBY PREVENTING ACCESS TO THE BEACH WITHOUT CLIMBING THIS STAIRWAY TO A LANDING THAT PROVIDES AN ENTRANCE TO THE HOUSE AND DESCENDING DOWN THE OTHER SIDE TO REACH THE BEACH. THIS BLOCKS ACCESS TO THE BEACH AND PREVENTS VIEWS OF THE OCEAN FROM THE STREET.

0000000000

0000000000

0000000000

0000000000

0000000000

0000000000

0000000000

0000000000

0000000000

0000000000

ATTACTMENT II

SECTION IV

1. THIS REGARDS THE APPROVAL OF THE STRUCTURE AT 1081 MANDALAY BEACH ROAD ON MARCH 23RD, 2003 AND FILED WITH THE COASTAL COMMISSION APRIL 1, 2003. THIS STRUCTURE FAILS TO PROVIDE ACCESS TO THE BEACH AS THE CITY OF OXNARD AND THE PLANNING COMMISSION FAILED TO ADDRESS THE 4FT 8 INCH INCURSION INTO THE 5 FOOT SETBACK. THIS IS CAUSED BY THE CONSTRUCTION OF A STAIRCASE APPROXIMATELY 8 TO 10 STEPS UP TO A LANDING AND 8 TO 10 STEPS DOWN THE OTHER SIDE TO REACH THE BEACH. THIS IS A RUSE TO PROVIDE ACCESS TO THE FRONT DOOR BY USING ALMOST THE ENTIRE SET BACK. THIS WOULD CLEARLY BE ILLEGALLY VIOLATING THE FIVE FOOT SET BACK. THIS HOUSE WOULD BE ONLY FOUR INCHES FROM THE ADJOINING PROPERTY. THIS WOULD PREVENT ACCESS TO THE BEACH AND WOULD ALSO BLOCK ANY VIEW OF THE OCEAN TO THE PEOPLE WHO RESIDE IN MANDALAY SHORES AND ALSO TO THE PUBLIC IN GENERAL. THIS STRUCTURE ALONG WITH THE OTHER NEWLY BUILT HOUSES ADJOINING IT ON BOTH SIDES AND THE RECENTLY APPROVED HOUSE AT 1065 MANDALAY BEACH RD. WILL FORM A 35 FOOT WALL OF HOUSES ALONG THE SHORE FROM OUTRIGGER WAY TO BAYSIDE AND ON DOWN THE WHOLE OF CAPRI WAY. THIS WALL OF HOUSES COMPLETELY OBLITERATES THE VIEW FROM MANDALAY BEACH ROAD. AND I REPEAT IT NOT ONLY PREVENTS VIEWS OF THE OCEAN FROM THE STREET, BUT IT ALSO PREVENTS ACCESS TO THE OCEAN FOR OTHER RESIDENTS AND FOR THE PUBLIC IN GENERAL.

2. THE USE OF THE SET BACK TO PROVIDE ACCESS TO THE HOUSE WAS ALSO USED AT 1041 MANDALAY BEACH ROAD AND 1065 MANDALAY BEACH ROAD. THE HOUSE AT 1041 MANDALAY BEACH ROAD IS FOUR INCHES FROM THE ADJOINING PROPERTY DESTROYING ALL VIEWS FROM THIS PROPERTY AND SETTING A PRECEDENT THAT NEEDS TO BE ADDRESSED, SINCE PLAINLY THE DESIGNERS/BUILDERS ARE USING THE SAME ILLEGAL INCURSION INTO THE 5 FOOT SET BACK AT THE PROPERTIES LOCATED AT 1065 AND 1081 MANDALAY BEACH ROAD.