

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Filed: October 19, 2004
49th Day: December 7, 2004
Staff: KFS-LB
Staff Report: November 4, 2004
Hearing Date: November 17-19, 2004
Commission Action:

**Th17.5a****RECORD PACKET COPY****STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE**

APPEAL NUMBER: A-5-SNB-04-417

LOCAL GOVERNMENT: County of Orange

DECISION: Approval with Conditions

APPLICANT: James Cefalia

PROJECT LOCATION: 17088 5th Street, Sunset Beach (Orange County)

PROJECT DESCRIPTION: Appeal by Lindsay Tognetti from decision of County of Orange granting permit with conditions to James Cefalia to demolish an existing single family dwelling and construct a new three-story, 35 foot tall, two-family duplex on a 30 foot by 90 foot lot designated for residential use. The site is located upon an inland lot in an area designated with the SBR (Sunset Beach Residential) land use that allows high-density residential development.

APPELLANT: Lindsay Tognetti

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after a public hearing, determine that **NO SUBSTANTIAL ISSUE EXISTS** with respect to the grounds on which appeal number A-5-SNB-04-417 has been filed because the project, as conditioned by the County of Orange, is consistent with the certified Sunset Beach Specific Plan/Local Coastal Program and the public access policies of the Coastal Act.

Appeal contentions cited inconsistency with LCP policies related to scenic and visual qualities of coastal areas and community character. The appellant also raises issues relative to private views. The project site is on an inland lot where development would not obstruct any public view. Furthermore, the development authorized by the County complies with all LCP requirements regarding land use and building height and setbacks. Staff recommends that the Commission determine that the appellants' contentions do not raise a substantial issue of consistency with the certified LCP.

PROCEDURAL NOTE:

The current staff report and recommendation analyzes the approval related to the project being appealed, A-5-LGB-00-183. This staff report addresses only the question of substantial issue. If the Commission determines that a substantial issue exists, a staff report for a de novo permit will be prepared.

SUBSTANTIVE FILE DOCUMENTS:

- Sunset Beach Specific Plan/Local Coastal Program (LCP).
- County of Orange materials submitted as the file for Coastal Development Permit PA04-0015 granted by the County of Orange.

I. STAFF RECOMMENDATION FOR NO SUBSTANTIAL ISSUE:

MOTION: *I move that the Commission determine that Appeal No. A-5-SNB-04-417 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-5-SNB-04-417 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. SUBSTANTIAL ISSUE FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. APPEAL PROCEDURES

1. Appealable Development

Section 30603 of the Coastal Act states:

- (a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
- (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or 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 the greater distance.*
 - (2) *Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Sections 30603(a)(1) of the Coastal Act establishes the project site as being appealable by its location within 300 feet of the inland extent of the beach.

2. Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1), which states:

- (b)(1) *The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.*

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public

access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

The grounds for the current appeal include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding the protection of the scenic and visual qualities of coastal areas.

3. Qualifications to Testify before the Commission

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 persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

If a substantial issue is found the Commission will hear the proposed project de novo and all interested persons may speak. Any De Novo hearing will occur at a subsequent meeting date. All that is before the Commission at this time is the question of substantial issue.

B. LOCAL GOVERNMENTS ACTION

On September 28, 2004, the County of Orange approved Coastal Development Permit PA04-0015 to demolish an existing single family dwelling and construct a new three-story, 35 foot tall, two-family duplex on a 30 foot by 90 foot lot designated for residential use. The site is located upon an inland lot in an area designated with the SBR (Sunset Beach Residential) land use that allows high-density residential development. The approval required no variances. The approval was subject to sixteen special conditions (Exhibit 4) which required: 1) development of the site shall comply with applicable local provisions; 2) the approval is valid for 24 months; 3) the plan approved is a precise plan and deviations may necessitate future approvals; 4) failure to comply with the approval may result provide grounds for permit revocation; 5) the applicant to defend the County against any legal action that may occur; 6) establishment of a 90-day appeal period as required under Government Code 66020; 7) the applicant to implement post-construction water quality BMPs for the site; 8) required the building to be elevated above base flood elevation; 9 – 12) compliance with applicable fire management requirements; 13) preparation of a geology report; 14) compliance with noise abatement requirements during construction; 15) establishment of a construction phase erosion and sediment control plan; and 16) compliance with air quality measures.

The County's local appeal period expired on October 13, 2004. No appeal was filed at the local level (the County charges a fee). The County submitted their Notice of Final Decision regarding Coastal Development Permit PA04-0015 to the Commission on October 15, 2004. An appeal period was opened and an appeal was received by the Commission within 10 working days, on October 19, 2004.

C. APPELLANTS' CONTENTIONS

The appellants argue (Exhibit 3) that the proposed project will have adverse impacts upon visual resources. The appeal states:

Page III-11 of the Sunset Beach Specific Plan/LCP, Section C5. (Policies) states: " The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development.....to be visually compatible with the character of surrounding areas....."

The proposed development, which is the maximum height, width and setbacks, will be a giant three story rectangular box that will become the largest and most imposing structure on Fifth Street. It will be incompatible with the variety of homes on the street, some of which are historical cottages dating back to the 1920's and 30's. It will effectively make our two homes next door "shadow houses" which will no longer enjoy ocean views, sunlight or ocean breezes. It will loom over the other homes on 5th and 4th Streets as well, blocking their ocean views and sunlight.

We feel the County's current guidelines in Sunset Beach are far too lenient and could eventually allow a beach community comprised of giant stucco boxes that are 35 feet high and only 6 feet apart. In addition, the 2nd and 3rd stories are allowed to be 6 inches from the street/property line at both the front and rear. The charming cottages and historic homes will all be gone, replaced by giant monster houses. Is this the legacy to be left for future generations?

In summary, the appellant contends that the proposed development would degrade the scenic and visual qualities of the project area. Even though the project meets all applicable requirements of the certified LCP, the appellants contend these development standards would allow for the construction of a structure that would be inconsistent with the character of the surrounding community that contains a variety of smaller, older buildings built in the 1920's and 1930's. Finally, the appellant contends that the project will adversely affect private views available from adjacent residential structures. The appellant did not assert any contention that the proposed development would be inconsistent with the public access policies of the Coastal Act.

The applicant's response to the appellant's claims is attached as Exhibit 5.

D. SUBSTANTIAL ISSUE ANALYSIS

1. Project Description, Location and Background

The proposed project site is located at 17088 5th Street, Sunset Beach, Orange County (Exhibits 1 & 2). Sunset Beach is a County unincorporated area located south of Surfside in the City of Seal Beach and north and west of the City of Huntington Beach. The subject site in within a high-density area developed with single and multi-family residential structures located seaward of Pacific Coast Highway and a commercial district. The project site is located 5 lots seaward of Pacific Coast Highway and 2 lots inland from the sandy beach, separated therefrom by North and South Pacific Avenue with its wide median and public parking spaces. The area has been developed with a mixture of 1-story to 3-story residential structures. The subject

site is a 30 foot by 90 foot rectangular lot that is typical for the project area. The site is designated SBR (Sunset Beach Residential) in the certified Local Coastal Program. The principal permitted uses in this area are single and multi-family residences including condominiums and apartments, as well as community care facilities.

The development approved by the County is the demolition of an existing single-family dwelling and construction of a new three-story, 35 foot tall, two-family duplex. As described in the County's staff report, the project conforms to all development standards for new construction in the SBR district, which are as follows:

LCP Standard	LCP Requirement	Proposed Project
Front setback (5 th St.)		
• Garage/ground level	5 feet	5 feet
• 2 nd and 3 rd Levels	6 inches	6 inches
Rear setback (alley)		
• Ground Level	5 feet	5 feet
• 2 nd and 3 rd Levels	6 inches	6 inches
Side Setback (All Levels)	3 feet	3 feet on east side 4 feet on west side
Ground level floor elevation (living area)	2 feet above 5 th Street	2 feet above 5 th Street
Maximum Building Height	35 feet above ground level	35 feet above ground level
Parking	2 covered spaces per unit	2 garages spaces per unit
Open area, excluding setback areas	90 square feet per unit	153 square feet per unit

Each unit of the proposed duplex will have 2,159 square feet of living space, a 525 square foot 2-vehicle garage, and 153 square feet of decks. In total, the building will have 4,318 square feet of living space, 1,050 square feet of garage and 306 square feet of decks.

2. Analysis of Consistency with Certified LCP and Public Access Section of the Coastal Act

As stated in Section II.A.2 of this report, the local CDP may be appealed to the Commission on the grounds that it does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. The Commission must assess whether the appeal raises a substantial issue as to the project's consistency with the certified LCP or the access policies of the Coastal Act.

In making that assessment, the Commission considers whether the appellants' contentions regarding the inconsistency of the local government action with the certified LCP raise significant issues in terms of the extent and scope of the approved development, the support for the local action, the precedential nature of the project, whether a significant coastal resource would be affected, and whether the appeal has statewide significance.

In the current appeal of the project approved by the County the appellant contends that the County's approval of the project does not conform to various provisions of the certified LCP and requirements set forth in the Coastal Act. Not all of the contentions raised can be considered

valid appeal arguments, as the grounds for an appeal are limited to an allegation that the development does not conform to the certified LCP or the public access policies of the Coastal Act.

For clarification, the appellants' contentions have been grouped into the following categories: Valid and Invalid. Valid contentions follow. Invalid contentions are addressed on page 9 of the current staff report.

3. Valid Contentions

Those contentions determined to have valid grounds for appeal are included in the subsequent section. Section (a) describes those contentions that are found to raise a substantial issue and Section (b) addresses those which are not found to raise substantial issue with the County's certified LCP and public access provisions of the Coastal Act.

a) Substantial Issue

There are no contentions that raise a substantial issue.

b) No Substantial Issue

The following contentions raise no substantial issue of consistency with the policies and standards set forth in the certified LCP.

The appellant contends that the proposed development is not visually compatible with the character of the surrounding area. The appellant cites "Page III-11 of the Sunset Beach Specific Plan/LCP, Section C5" (i.e. Section II.C.5 of the LCP) that incorporates Section 30251 of the Coastal Act and states, as follows:

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.

Even though the project meets all of the applicable development standards of the LCP, the appellant contends the proposed development would not be consistent with the character of the surrounding area. The appellant states there are presently single story historical cottages in the area and suggests that the proposed structure would be out of character with these structures. The appellant contends that the proposed structure will be the largest structure on Fifth Street.

In a report prepared by County staff dated June 8, 2004, the County addressed the issue of the project's consistency with the surrounding community. In that discussion, the County states

that the LCP addresses viewshed protection, "...but it is in the context of signage and maintaining height regulations to preserve views generally along Pacific Coast Highway." The County report also states that earlier versions of the project submitted to the County did not meet applicable development standards and would have been inconsistent with surrounding development. However, the project was revised to conform to the applicable development standards in the LCP.

Also, the County's report states that a number of residential structures in the surrounding area consist of 2 to 3 story structures, some of which are 35 feet in height, as is the proposed development. The County's record for the subject action contains oblique aerial photographs of the area surrounding the project site. There are 10 lots on this block of 5th Street (5 lots on each side of the street). Of those 10 lots, only the subject site and one lot across the street from 5th Street appear to be single story. The remaining 8 lots are developed with 2 and 3 story structures. It also appears that the majority of the lots in the surrounding community are developed with 2 to 3 story structures. Furthermore, the Commission's records indicate the County has routinely allowed the construction of structures similar to the structure proposed (e.g. PA01-0077, PA02-0020, PA02-0046, PA02-0120, PA03-0105, PA04,0008, PA04-0029, PA04-0038, PA99-0177, PA00-0051, PA00-0145). Thus, there is substantial evidence in the County's record that the proposed project is consistent with the character of the surrounding area.

One of the appellants' contentions is that there is an absence of policies within the LCP to prevent conversion of the area to structures that maximize the building envelope. The County's report indicates there are 16 policies in the certified LCP that apply to viewshed resources. However, these policies mainly address reducing visual impacts associated with above ground utility lines and signs along the commercial corridor, as well as the preservation of views of open space areas. There are no policies that would suggest the County ought to protect the visual quality of the area by constraining development on residential lots further than the development standards established in the LCP.

In addition, the development is located in an area broadly defined as part of a scenic corridor along Pacific Coast Highway (Exhibit 2). However, it is not located along 3rd, 7th or 11th Streets, which are identified in the LCP as Scenic Vista corridors. Thus, the subject lot is not situated such that the proposed development would interfere with, obstruct or have any other adverse effects upon public views.

Also, the appellant contends that the proposed project would be inconsistent with the character of "historical cottages" the appellant states are present within the community. Section II.B.7 of the LCP indicates "...[t]here are known cultural/scientific resources in the project area. A few of the oldest structures may be of some minor historical interest...". In addition, Policy 57 states that "County policies addressing archeological, paleontological and historical resources shall be implemented at appropriate stages of planning, coordinated with the processing of a project application." However, the LCP does not identify any specific structures as historical elements that must be preserved. In addition, the structure on the project site, that is proposed to be demolished, was not identified by the County as having historical significance. Nor were any structures in the vicinity of the project site identified as being historically significant. Furthermore, the LCP does not identify the character of the community as having significant historical value nor are there LCP policies requiring the County to preserve any historical character of the community.

Finally, the appellant did not raise any issue as to whether the project was inconsistent with the public access policies of the Coastal Act. However, the Commission notes the proposed

development does supply at least 2 parking spaces per residential unit, consistent with the requirements of the LCP.

The proposed development is consistent with the land use designation for the site and with all applicable development standards contained in the certified LCP. Thus, the appeal does not raise a substantial issue as to the conformity of the project with the certified LCP.

c) Significance of Issues Raised by Appeals

The appellants' contentions do not raise significant concerns in terms of the project having a precedential effect, that a significant coastal resource would be adversely affected, or that the appeal has statewide significance. Basically this is a dispute between local residents regarding the compatibility of a new residential structure that was approved consistent with all existing development standards, with the character of existing development. The project site is in a built out residential area. The certified Local Coastal Program clearly contemplates and authorizes the use of the subject site for the proposed development. The proposed development is not inconsistent with any land use or zoning designation in the certified LCP. Moreover the development as approved by the County would not have an adverse impact on public visual resources. Finally, the proposed development provides adequate parking on-site to serve the development. Therefore, the Commission finds that the proposed development as approved by the County raises no substantial issue with respect to the grounds on which it was appealed or conformance with the public access policies of the Coastal Act.

4. Invalid Contentions

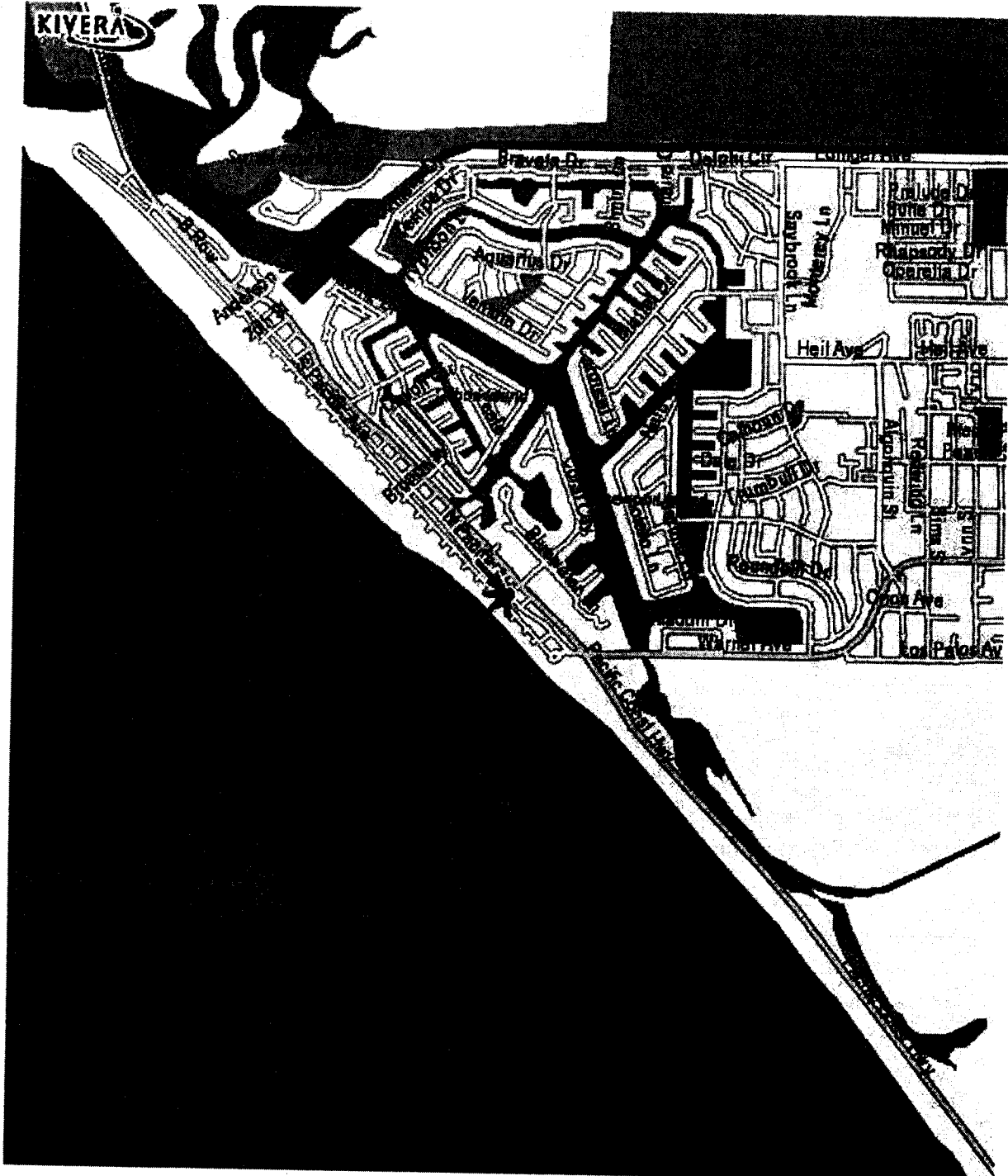
Not all of the contentions raised by the appellants can be considered valid appeal grounds, as the grounds for an appeal are limited to an allegation that the development does not conform to the certified LCP or the public access policies of the Coastal Act.

For instance, the appellant states that the development will block the ocean views from private homes adjacent to or surrounding the site. Neither the Coastal Act nor the certified LCP contain policies that protect private views. This contention does not raise an issue of the projects' conformity with the County's certified LCP or the public access policies of the Coastal Act, therefore, the contention is not a valid grounds for appeal of a coastal development permit.



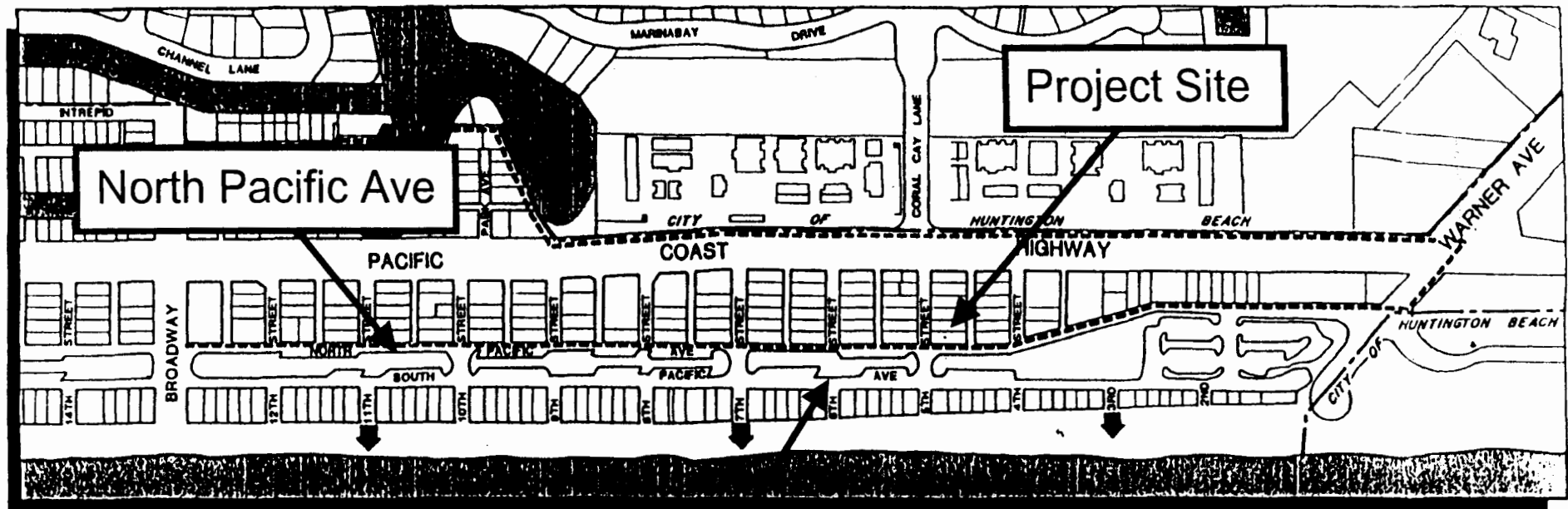
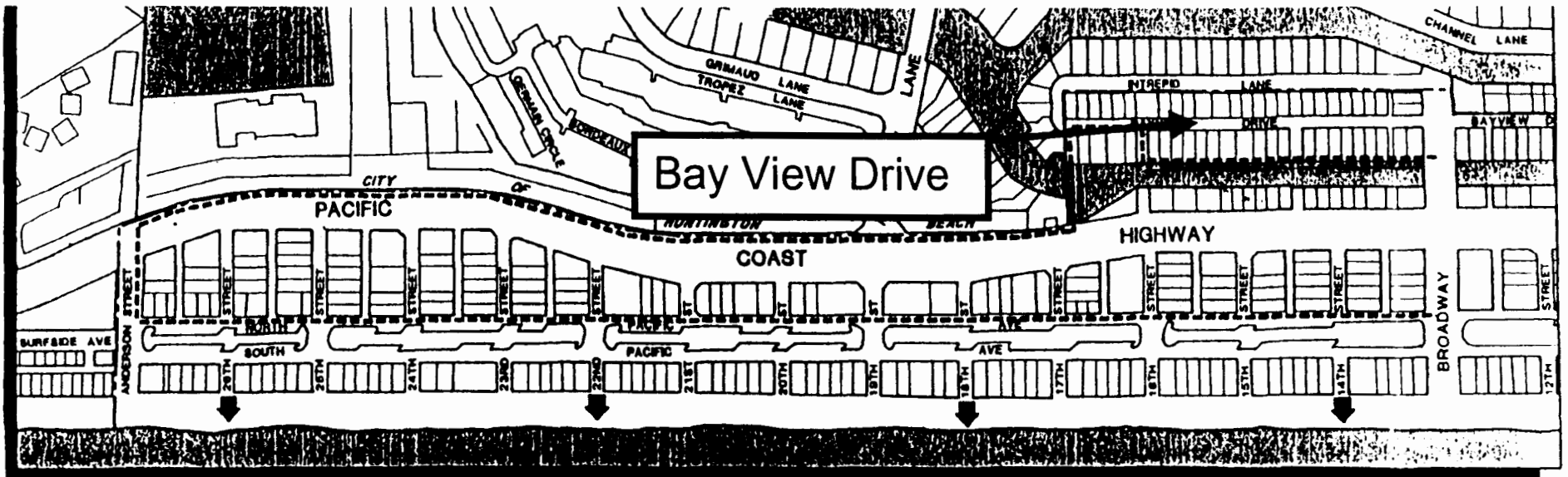
Back

17088 5TH STREET SUNSET BEACH, CALIFORNIA 90742



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1





-  Boundary of Scenic Corridor
-  Scenic Vista

EXHIBIT # 2
PAGE 1 OF 1

COASTAL COMMISSION

South Pacific Ave



0 100 200 400
SCALE

VIEW ANALYSIS
SUNSET BEACH
Specific Plan and
Local Coastal Program
NORTH COAST PLANNING UNIT
LOCAL COASTAL PROGRAM
ENVIRONMENTAL MANAGEMENT AGENCY



Exhibit 2

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Commission Form D)

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

SECTION I. Appellant(s)

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

Lindsay Tognetti
3141 OCEAN VIEW
LAGUNA BEACH, CA (949) 499-1510
Zip 92651 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: COUNTY OF ORANGE

2. Brief description of development being appealed: 3 story (35' ht), 2 family duplex

3. Development's location (street address, assessor's parcel no., cross street, etc.): 17008 5th St., SUNSET BEACH
AP# 178-545-04

4. Description of decision being appealed:

- a. Approval; no special conditions:
- b. Approval with special conditions:
- c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 5

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: 9/28/2004

7. Local government's file number (if any): PA04-0015

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:

JAMES CAFALIA
930 W. OCEAN FRONT
NEWPORT BEACH, CA 92661

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) MARILYN S. SLIFMAN, ATTORNEY AT LAW
2 CORPORATION PLAZA, SUITE 250
NEWPORT BEACH, CA 92660

(2) STEPHEN ANDERSON
P.O. BOX 581
SUNSET BEACH, CA 90742

(3) GREG MANARY
P.O. BOX 436
SUNSET BEACH, CA 90742

(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.

COASTAL COMMISS

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.)

Please see attached typed statement

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.

Jindson D. Tognetti
Signature of Appellant(s) or
Authorized Agent

Date October 18, 2004

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.

COASTAL COMMISSION

Signature of Appellant(s)

Date _____

EXHIBIT # 3
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Page III-11 of the Sunset Beach Specific Plan/LCP, Section C5. (Policies) states:
"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development to be visually compatible with the character of surrounding areas....."

The proposed development, which is the maximum height, width and setbacks, will be a giant three story rectangular box that will become the largest and most imposing structure on Fifth Street. It will be incompatible with the variety of homes on the street, some of which are historical cottages dating back to the 1920's and 30's. It will effectively make our two homes next door "shadow houses" which will no longer enjoy ocean views, sunlight or ocean breezes. It will loom over the other homes on 5th and 4th Streets as well, blocking their ocean views and sunlight.

We feel the County's current guidelines in Sunset Beach are far too lenient and could eventually allow a beach community comprised of giant stucco boxes that are 35feet high and only 6 feet apart. In addition, the 2nd and 3rd stories are allowed to be 6 inches from the street/property line at both the front and rear. The charming cottages and historic homes will all be gone, replaced by giant monster houses. Is this the legacy to be left for future generations?

COASTAL COMMISSION

EXHIBIT # 3
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County of Orange
RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT

Bryan Speegle
DIRECTOR

300 N. FLOWER ST.
SANTA ANA, CALIFORNIA

MAILING ADDRESS:
P.O. BOX 4048
SANTA ANA, CA 92702-4048

NOTICE OF FINAL DECISION

DATE: October 14, 2004

Coastal Development Permit No.: Planning Application No. PA04-0015

Date of County Action: Sept 28, 2004 **Action:** Conditionally approved by the Planning Commission

Applicant/Address: James Cafalia, 930 W. Ocean Front, Newport Beach, CA 92661

Project Description: The applicant proposes to demolish an existing single-family dwelling and construct a new three-story (35 feet in height) two-family (duplex) dwelling on a lot measuring 30 feet by 90 feet with a land use designation of SBR "Sunset Beach Residential.

Project Location: 17088 5th Street, Sunset Beach. **Assessors Parcel Number:** 178-545-04

AN APPEAL OF THIS PROJECT WAS ACTED ON AS STATED ABOVE.

THE COUNTY'S ACTION ON THE ABOVE PROJECT WAS NOT APPEALED WITHIN THE LOCAL APPEAL PERIOD ENDING OCTOBER 13, 2004.

County contact: William V. Melton, Project Manager
RDMD/Site Planning Section
P. O. Box 4048; Santa Ana, CA 92702-4048

This project is in the coastal zone and is an "appealable development" subject to Coastal Commission appeal procedures.

Approval of an "appealable development" may be appealed to the California Coastal Commission within 10 working days after the Coastal Commission receives this Notice. Appeals must be in writing and in accordance with the California Code of Regulation Section 13111. For additional information write to the California Coastal Commission, South Coast Area Office, 200 Oceangate, 10th Floor, Long Beach, CA. 90802-4302, or call (562) 590-5071.

MAIL TO: California Coastal Commission including: 1) staff report dated May 25, 2004 (PC Hearing June 8, 2004) for Site Planning and Environmental Planning and minutes dated June 8, 2004; 2) staff report and minutes dated July 13, 2004; and, 3) staff report dated September 28, 2004 with Findings and Conditions and minutes dated September 28, 2004.

Applicant
Lindsay Tognetti

COASTAL COMMISSION

EXHIBIT # 3
PAGE 5 OF 5



Appendix B Conditions of Approval PA040015

1 CP CP NA BASIC/ZONING REG PA040015

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

2 CP CP NA BASIC/TIME LIMIT PA040015

This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

3 CP CP NA BASIC/PRECISE PLAN PA040015

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

4 CP CP NA BASIC/COMPLIANCE PA040015

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

5 CP CP NA BASIC/OBLIGATIONS PA040015

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

6 CP CP NA BASIC/APPEAL EXACTIONS PA040015

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

7 SG SG G DRAINAGE IMPROVEMENTS PA040015

A. Prior to the issuance of any grading permits, the applicant shall in a manner meeting the approval of the Manager, Subdivision and Grading:

COASTAL COMMISSION

- 1) Design provisions for surface drainage; and

EXHIBIT # 4
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- 2) Design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and
- 3) Dedicate the associated easements to the County of Orange, if determined necessary.

B. Prior to the issuance of any certificates of use and occupancy, said improvements shall be constructed in a manner meeting the approval of the Manager, Construction.

8 SG CP/BI SU FLOODPLAIN ELEVATION PA040015 (Custom)

A. Prior to the issuance of a grading permit, the applicant shall submit an Elevation Certificate to the Manager, Current Planning Services, identifying the base flood elevation and certifying that the planned elevation of the lowest floor, including basements, is at least one (1) foot above the Base Flood Elevation (BFE). (NOTE: To eliminate FEMA requirements for flood insurance, the lowest elevation of any part of the structure, not only the lowest floor, must be above the BFE.)

B. Prior to the issuance of certificates of use and occupancy for any building, the applicant shall complete Section "E" of the Elevation Certificate, identifying the Base Flood Elevation (BFE) and certifying the as built lowest floor, including basements, as constructed, is at least one (1) foot above the BFE, in a manner meeting the approval of the Manager, Building Inspection Services. (NOTE: To eliminate FEMA requirements for flood insurance, the lowest elevation of any part of the structure, not only the lowest floor, must be above the BFE.) elevation of any part of the structure, not only the lowest floor, must be above the BFE.)

9 F F B COMBUSTIBLE CONSTRUCTION LETTER PA040015
[Res] No OCFA Service Code (Usually
Received with 1.12.1)

Prior to the issuance of a building permit for combustible construction, the builder shall submit a letter on company letterhead stating that water for fire-fighting purposes and all-weather fire protection access roads shall be in place and operational before any combustible material is placed on site. *Building permits will not be issued without Orange County Fire Authority approval obtained as a result of an on-site inspection.* Please contact the Orange County Fire Authority at (714) 744-0499 to obtain a copy of the standard combustible construction letter.

10 F F GBU FIRE HYDRANTS PA040015 (Custom)
[Res] Service Code: 1.12.1, 1.29, 1.30

A. Prior to the issuance of a building permit, the applicant shall submit a fire hydrant location plan to the Fire Chief for review and approval.

11 F F B WATER AVAILABILITY PA040015 (Custom)
[Res] Service Code: 1.12.1

Prior to the issuance of a building permit, the applicant shall provide evidence of adequate fire flow. The "Orange County Fire Authority Water Availability for Fire Protection" form shall be signed by the applicable water district and submitted to the Fire Chief for approval.

12 F F RBU AUTOMATIC FIRE SPRINKLER PA040015 (Custom)
[Res] Service Codes: 1.27-1.28

A. Prior to the issuance of a building permit, the applicant shall submit plans for any required automatic fire sprinkler system in any structure to the Fire Chief for review and approval. Please

contact the Orange County Fire Authority at (714) 744-0499 for additional information.

B. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

13 SG SG G GEOLOGY REPORT PA040015 (Custom)

Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Subdivision and Grading, for approval. The report shall include the information and be in the form as required by the Grading Manual. A soils report must also address liquefaction per Uniform Building Code (UBC) Publication 117 published by the California Division of Mines and Geology.

14 BP BP G CONSTRUCTION NOISE PA040015

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permit s Services, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers.
- (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
- (3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans, will be considered as adequate evidence of compliance with this condition.

15 BI BI GB EROSION AND SEDIMENT CONTROL PLAN PA040015

Prior to the issuance of any grading or building permit, the applicant shall submit a Erosion and Sediment Control Plan (ESCP) in a manner meeting approval of the Manager, Building Permit Services, to demonstrate compliance with local and state water quality regulations for grading and construction activities. The ESCP shall identify how all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored, and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion or dispersion. The ESCP shall also describe how the applicant will ensure that all BMP's will be maintained during construction of any future public right-of-ways. A copy of the current ESCP shall be kept at the project site and be available for County review on request.

16 CP CP B AIR QUALITY PA040015 (Custom)

Prior to the issuance of a demolition permit, or in concurrence with a demolition permit, applicant shall notify the South Coast Air Quality Management District (AQMD) ten (10) working days prior to the start of demolition. Applicant shall prove to the satisfaction of the Manager, Subdivision and Grading, that the State's AQMD regulations regarding demolition have been met.

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November 2, 2004

To: California Coastal Commission
Karl Scheing, Orange County Area Supervisor
P.O. Box 1450
200 Oceangate, 10th floor
Long Beach, CA 90802

From: James Cefalia
17088 5th Street
Sunset Beach

RE: Commission Appeal No. A-5-SNB-04-417

Dear Sir or Madam:

My name is James Cefalia and I am the owner of the property. I have been working on this project for over a year now and feel it is extremely unfair that someone can have the right to appeal the proposed development. I have complied with all of the cities guidelines, rules, and regulations. I requested a long escrow in order to research and analyze the County of Orange's codes so that the finish product would justify the high cost of the land. It would be an extreme financial burden and unjust if the rules were changed this far into the project.

Futhermore, the proposed development is visually compatible with the character of the surrounding area. The same three story plan is not only built on Fifth Street (almost adjacent) but up and down each street in sunset beach. Also, within the last year, five of the same duplexes have been constructed within blocks. The appellant's, Lindsay Tognetti, duplex is not a cottage and her second floor is on fifth street/ property line with no setbacks which blocks our view of the right side. Currently most of the older duplexes in the area have only a two car garage but our new project has a two car garage per unit a total of four car parking which makes the streets less congested.

I hope the commission upholds the codes written by the County of Orange which I put a tremendous amount of faith in. Thank you for your time.

James Cefalia

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P.S. A Photo will be enclosed to show the surrounding area PAGE 1 OF 1

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