

CALIFORNIA COASTAL COMMISSION

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

Filed: 4/7/2004
49th Day: 5/26/2004
180th Day: N/A
Staff: CP-LB
Staff Report: 4/21/2004
Hearing Date: May 14, 2004
Commission Action:

**F14a****RECORD PACKET COPY****STAFF REPORT: APPEAL**
NO SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Manhattan Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-04-137

APPLICANT: Michael Roughen

AGENT: Elizabeth Srour, Srour & Associates, LLC

PROJECT LOCATION: 121 15th Street, City of Manhattan Beach, Los Angeles County.

PROJECT DESCRIPTION: Appeal of City of Manhattan Beach local coastal development permit and vesting tentative parcel map for the demolition of an existing detached duplex, and construction of a three-level, two-unit condominium project.

APPELLANT: Oaky Miller (a.k.a. Chuck Harris)

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. CA 03-36/ Planning Commission Resolution No. PC 04-3, 2/11/04 (Exhibit #9, p.9).
2. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/94.
3. Appeal No. A-5-MNB-98-239 (Salim -124 5th Street, Manhattan Beach).

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed for the following reason: The locally approved development conforms to the City of Manhattan Beach Certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. **The motion to carry out the staff recommendation is on Page Five.**

LCP. The Planning Commission found that the design of the proposed three-story building meets all of the City's parking, setback and open space requirements, and is consistent with the scale of the surrounding neighborhood, which is comprised of one-to-three story residential buildings (Exhibit #9, ps.4-5). The proposed project also was found to conform to the City's thirty-foot height limit, measured from the average grade of the four corners of the site (Exhibit #5).

The appellant appealed the Planning Commission's decision to the City Council. On March 16, 2004, after a public hearing, the Manhattan Beach City Council affirmed the Planning Commission's February 11, 2004 approval of Local Coastal Development Permit No. 03-36. The action by the City Council was not appealable at the local level.

On March 23, 2004, the City's Notice of Final Local Action for Local Coastal Development Permit No. 03-36 was received in the Commission's South Coast District office in Long Beach. The Commission's ten working day appeal period was then established and the interested parties were notified. On April 7, 2004, the final day of the appeal period, the South Coast District office received Oaky Miller's appeal (Exhibit #7).

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

The City of Manhattan Beach Local Coastal Program (LCP) was certified on May 12, 1994. In Manhattan Beach, the inland boundary of the appealable area of the City's coastal zone, located three hundred feet from the inland extent of the beach, has been mapped within the Manhattan Avenue right-of-way (Exhibit #1). Although not located between the first public road and the sea, the proposed project is located entirely within the mapped geographic appeals area. Section 30603(a)(1) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location within three hundred feet of the beach.

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.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds for the appeal regarding conformity of the project with the City of Manhattan Beach certified Local Coastal Program and the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

Staff recommends a **YES** vote on the following motion:

MOTION

*"I move that the Commission determine that Appeal No. A-5-MNB-04-137 raises **No Substantial Issue** with respect to the grounds on which the appeal has been filed."*

A majority vote of the Commissioners present is required to pass the motion and to adopt the following resolution and findings.

Resolution to Find No Substantial Issue for Appeal A-5-MNB-04-137

The Commission hereby finds that Appeal No. A-5-MNB-04-137 presents no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

Local Coastal Development Permit No. 03-36 approves the demolition of an existing detached duplex, Vesting Tentative Parcel Map No. 060405, and the construction of a three-level, thirty-foot high, 4,012 square foot two-unit condominium project (Exhibits #3-6). The project site is a 2,694 square foot lot situated approximately two hundred feet inland of the beach (Exhibit #2). Six on-site parking spaces are being provided; three for each condominium unit.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it finds that the appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. In previous decisions on appeals, the Commission has been guided by the following factors.

to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

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.

Section 30212 (in part)

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where...

Section 30212.5

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

Section 30213 (in part)

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

Although, the public access policies of the Coastal Act are silent in regards to parking requirements for private residential development, the certified Manhattan Beach LCP contains the following relevant Parking Policies.

POLICY I.C.4: *The City shall ensure that future residential and commercial development provides the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan, except that residential parking requirements shall not be reduced for units less than 550 square feet.*

POLICY I.C.5: *The City shall encourage the use of private residential garage spaces for parking rather than storage in order to help mitigate on-street parking pressures.*

POLICY I.C.6: *The City shall require existing residential and commercial buildings to comply with parking standards set forth in Section A.64 of Chapter 2 of the Implementation Plan upon substantial remodeling or expansion, as defined in Sections A.64.020 and A.68.030 of Chapter 2 of the Implementation Plan except that residential parking requirements shall not be reduced for units less than 550 square.*

Commission's limited appellate jurisdiction does not allow it to consider the effect of a project on the sunlight and air circulation to a neighboring private property owner. Therefore, since the substantial issue determination is limited solely to the issue of whether the local approval raises a substantial issue regarding conformity with the certified LCP and the public access policies of the Coastal Act, this appeal does not raise a substantial issue.

Fire Safety and Elevation

Although the appellant raises issues related to fire safety and the calculation of the elevation of the site, he again does so without contending that there is any connection between the issues raised and any policy in the certified LCP or the public access policies of the Coastal Act. As a result, these claims raise no substantial issue with respect to the grounds on which an appeal may be filed pursuant to section 30603 of the Coastal Act.

Substantiality Generally

Applying the five factors listed in the prior section further clarifies that the appeal raises no "substantial" issue with respect to the grounds on which the appeal has been filed.

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with the certified LCP and the public access policies of the Coastal Act. In this case, the City Council's and Planning Commission's conclusions that the proposed project conforms to the certified LCP and the public access policies of the Coastal Act are based on the facts of the case presented in the form of project plans prepared by the project architect¹ and a site survey prepared by a Licensed Land Surveyor.² Together, the project plans and the survey show that the proposed development, in relation to the actual lot dimensions and elevations, conforms with the building standards set forth by the certified LCP. The proposed project was found to conform to the City's thirty-foot height limit, measured from the average grade of the surveyed elevations for each corner of the site (Exhibit #5). Using the plans and survey data, the City also determined that the design of the proposed three-story building meets the City's setback and open space requirements (Exhibit #9, ps.4-5). The survey shows that the entire project, including the proposed privacy wall on the property line to which the appellant is objecting, is situated on the applicant's property, and there would be no encroachment of physical development onto the appellant's property. The City has not granted the project any variance or exception from the building standards set forth by the certified LCP. The City record is attached to this report as Exhibit #9 (See ps.4-5, Exhibit #9). Therefore, the City's decision that the project is consistent with the certified LCP and the public access policies of the Coastal Act had substantial factual and legal support.

In terms of coastal access, the proposed project was found to conform with the public access policies of the Coastal Act because there would be no encroachment into any public accessway, and adequate on-site parking is being provided (six parking spaces for two residential units).

The second factor is the scope of the development approved by the local government. Here, the proposed development approved by the local government was the construction of a two-unit condominium project in a developed residential neighborhood. The project site is already

¹ Joyce Flood and Associates, Architects (Job No. MR0310, 1/05/04 & 1/09/04).

² Lewis Soloff (PLS 5344), Soloff Surveying and Consulting (Job No. 3.068, 8/29/03).

a car door to be opened when one is parked in the City-required guest parking area situated on the west side of the appellant's property located at 125 15th Street (Exhibit #3). This proposed property line wall, the appellant asserts, would make his guest parking space unusable. As a result, a guest would have to park in an on-street public parking space, thus adversely affecting coastal access by increasing the demand for public parking in this coastal neighborhood that already cannot accommodate the demand for public parking. The appellant is claiming that he has an easement over the portion of the applicant's lot that is necessary for a car door to be opened when such car is parked in the appellant's guest parking space at 125 15th Street.

Response: This issue is essentially a claim by the appellant that he has a right or easement over the portion of the applicant's lot that is necessary for a car door to be opened when such car is parked in the appellant's guest parking space at 125 15th Street. The Coastal Commission is not the proper arbiter of this claim by the appellant, as it is a dispute between two neighbors about a private land use matter that is not addressed or regulated by the certified LCP or the Coastal Act. It is not the Commission's role to resolve conflicts between neighbors over easements. The Commission has a limited appellate authority/jurisdiction as defined by Section 30625(b)(1). The Commission is not a judicial body of general jurisdiction, as its review is limited to assessing conformity with the Coastal Act.

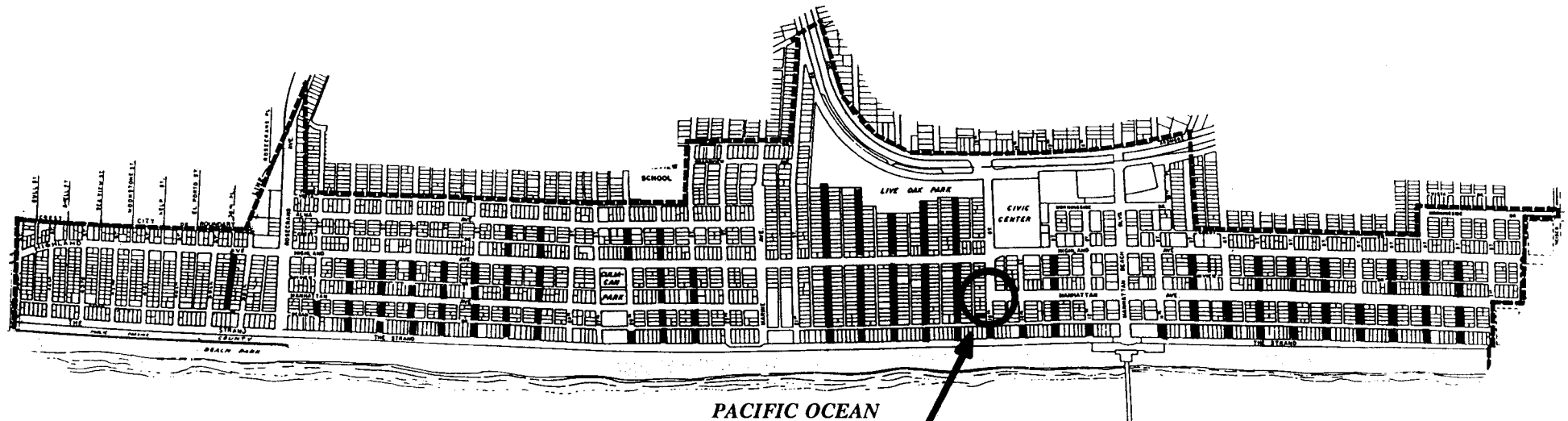
2. The proposed condominium building would be so close to the appellant's house that it would cause a fire safety issue.

Response: The City-approved condominium building provides the three-foot side yard setback that is required by the certified LCP, and a three-foot setback is the standard for many coastal communities built on smaller lots. Property line walls are not subject to setback requirements. The City adopted the side yard setback requirement set forth by the certified LCP in order to provide for adequate building separation and fire safety. The Commission then certified the set back requirement as being in conformance with the Chapter 3 policies of the Coastal Act. It is the same set back requirement that all new structures must conform to in this coastal neighborhood, and it is adequate for fire safety.

3. The proposed condominium building is designed to the maximum density, size and height. Therefore, the proposed project which would block the sunlight and air circulation to the appellant's house and would adversely affect the appellant's health.

Response: While this may or may not be true, the project is designed under the same building standards that apply to all properties in this coastal neighborhood. The City has not granted the project any variance or exception from the building standards set forth by the certified LCP (See Exhibit #9, ps.4-5). Moreover, the Commission's limited appellate jurisdiction does not allow it to consider the effect of a project on the sunlight and air circulation to a neighboring private property owner. Since the proposed project does conform with to the certified LCP and the public access policies of the Coastal Act, the Commission finds that no substantial issue exists with respect to the grounds for appeal.

4. The applicant's surveyed property elevations, from which the building height limit is measured, conflict with the elevations measured by the appellant's survey company.



Project Site
121 15th Street
A5-MNB-04-137

Legend

— Coastal Zone Boundaries

— Walk Streets

Map III-2
Coastal Access
City of Manhattan Beach Local Coastal Plan

Source: City of Manhattan Beach, 1994

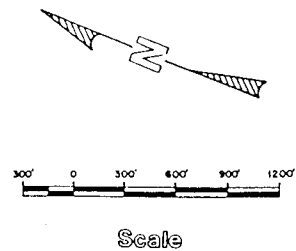
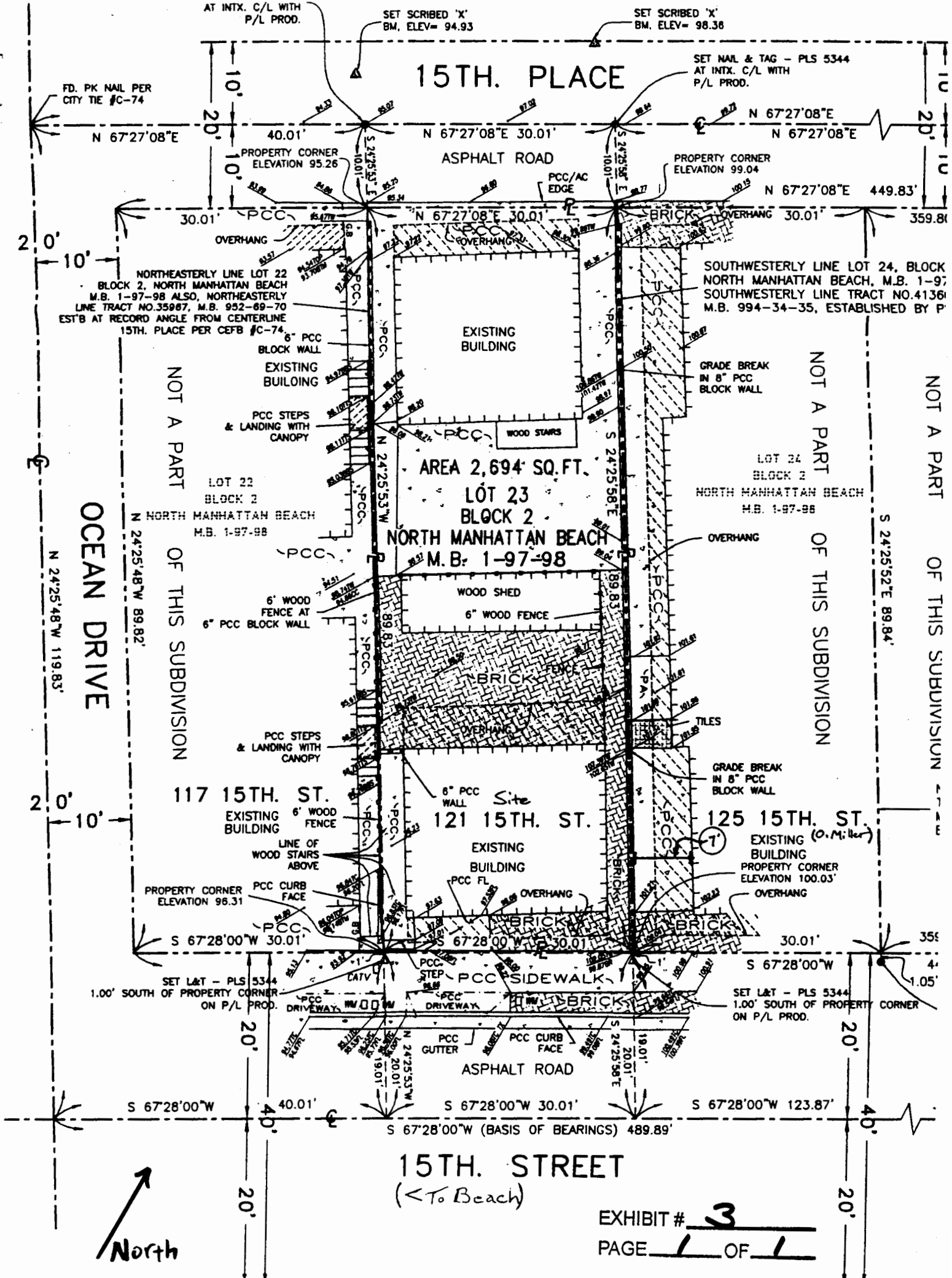


EXHIBIT # 1
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15TH. PLACE

AREA 2,694 SQ. FT.

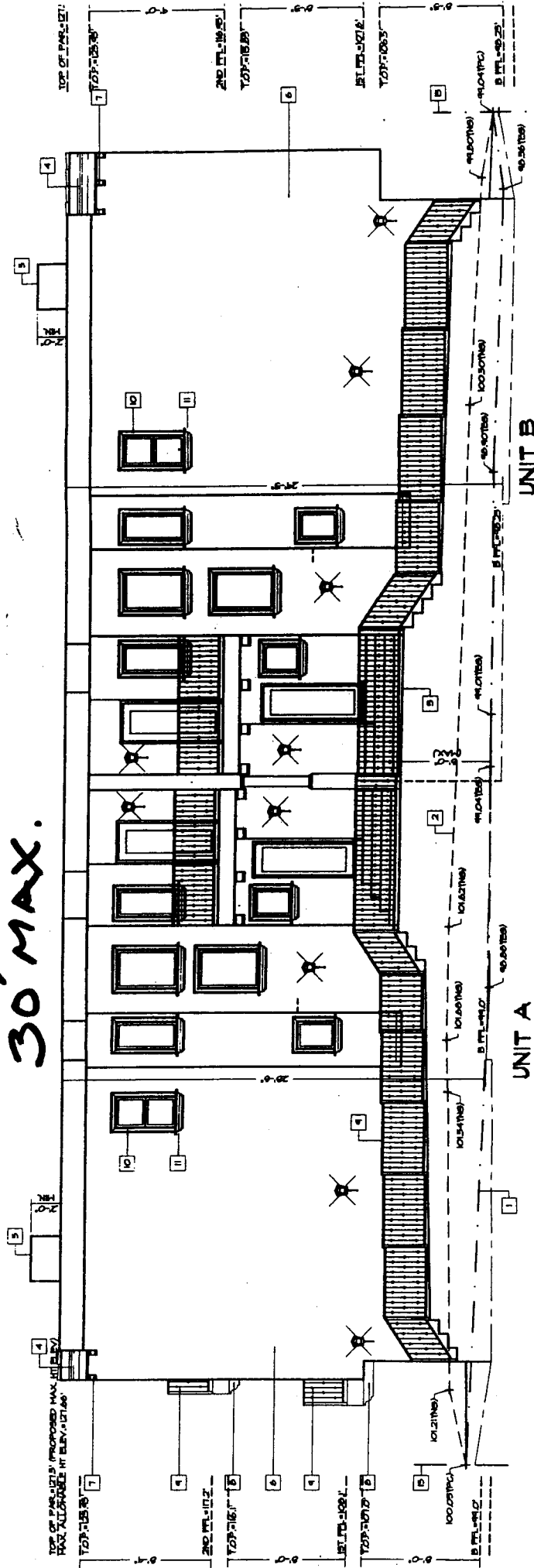
LOT 23
BLOCK 2
NORTH MANHATTAN BEACH
M.B. 1-97-98

121 15TH. ST.

15TH. STREET
(< To Beach)

EXHIBIT # 3
PAGE 1 OF 1

30' MAX.



15th Street

EAST ELEVATION (RIGHT SIDE)
SCALE

15th Place

COASTAL COMMISSION
AS-MAB-04-137

EXHIBIT # 5

PAGE 1 OF 1

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)

RECEIVED
South Coast Region

APR 7 2004

CALIFORNIA
COASTAL COMMISSION



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

SECTION I. Appellant(s)

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

DAKY MILLER 323 SOUTH ORANGE DR
LA, CALIF 90036
(323) 933-9161
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: MANHATTAN BEACH, CALIF 90266

2. Brief description of development being appealed: Building being built next to my home
appealing a two unit cove development

3. Development's location (street address, assessor's parcel no., cross street, etc.): 121-15th

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: A5-MNB-04-137

DATE FILED: 4/7/04

DISTRICT: South Coast / Long Beach

H5: 4/88

COASTAL COMMISSION

EXHIBIT # 7
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air space to accommodate me getting out of my car. This in of itself gives me the right of an easement to the next-door property with respect to being able to open my car door for a parking space that is mandated by the City of Manhattan Beach. By being allowed the use of this air space, that I have used for the past 16 years, has stopped the negative impact on the environment when it pertains to having to build more public parking spaces. If it is all right for one builder to do this, take away his neighbors parking space, then it would be come all right for all builders to do this. Pretty soon the entire Manhattan Beach will have to have more Public Parking spaces than are now needed.

The very fact that he is building so close to my home also causes a safety issue as far as the Fire department is concerned in having access to getting to either home quickly, my or his, in case there is a fire. This builder is building this home to the very maximum limit as far as height and size is concerned, (bulk and density) that he can. By doing so he takes away the side yard, where air and light that is demanded by the Costal Commission. I will have very little of both. Again this developer has caused an adverse effect to what the costal commission demands.

This builder for profit, who does not even want to live in the house he is building, wants to built to the very limit of space he feels he can, with total disregard for the law as well as respect for others. Not only is this also illegal on several accounts but more than that, he is putting my owe safety and life in danger. He is most definitely causing me personally adverse effects on my health as well as causing an adverse impact on the environment for all of the residents in Manhattan Beach.

For the record I am a heart patient, having suffered a massive heart attack four years ago, two days after my cancer operation. All this is verifiable through my hospital records. I not looking for sympathy, but I do have a right to live and breath and not be killed by this developer/builder.

For this builder to build this monstrosity as high and as wide as he wants to will impede a flow of fresh air and circulation coming into my home as well as cut out all sunlight and breathing space. Sure, I will have air and be able to breath in my home, but it won't be circulated fresh air. He is trying to cage me like a rat in a concrete cement cell for the rest of the few years I left on this earth. If this is not an adverse effect on others than what is, if this is not an adverse impact on me personally than I certainly don't know what is? Even though there has been a lose code in Manhattan Beach pertaining to adverse effects as well as adverse impact on others and the costal area, this code has never been enforced in the Manhattan Beach area as it has been enforced in other beach communities. I understand that there are a few cases on record now, with the costal commission, where one or two situations simulate to this is now under investigation in other beach communities. For my life as well as others this code now has to be enforced.

For the most part, every other beach community has addressed this situation in full, but Manhattan Beach does not want to do such a thing because they don't want to cause any harm to builders for profit and developers who have no respect for others. Before we

COASTAL COMMISSION

EXHIBIT # 7
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SROUR & ASSOCIATES, LLC

Business and Real Estate Development Services

Elizabeth C. Srou
Francene Baker Uralman
1001 Sixth Street, Suite 110
Manhattan Beach, CA 90266
(310) 372-8433 • (310) 372-8894 Fax
Email: esrou@aol.com

April 8, 2004

CA Coastal Commission
South Coast Area
200 Oceangate 10th Floor
Long Beach, CA 90802-4302

Hand Deliver

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South Coast Region

APR 9 - 2004

ATTN: CHARLES POSNER, STAFF ANALYST
SUBJECT: PERMIT CA-03-36 121 - 15th Street, Manhattan Beach

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Posner:

In response to our phone conversation this date, I have enclosed written materials presented to the MB City Council at the public hearing of March 16, 2004, which include:

- Planning Commission Staff Report and project analysis for public hearing of 2/11/04
- Planning Commission Resolution PC 04-3 APPROVING the project
- Planning Commission Minutes

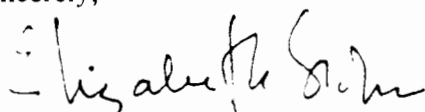
Also enclosed are photographs of the subject property and the appellant's adjacent property.

The proposed development was reviewed by the Planning Commission at their meeting of February 11, 2004, and found to be in full compliance with all applicable zoning standards and consistent with the Local Coastal Program. The decision was appealed to the City Council by neighbors and was heard at their meeting of March 16, 2004. The City Council upheld the decision of the Planning Commission and denied the appeal.

The approval has now been appealed by one of two owners of the two-unit condominium development adjacent and east of the subject property. That development was constructed based on the same procedures, Coastal Program and zoning standards that apply to all condominium development in the Coastal Zone. The appellant is alleging that construction of the proposed development will impact, among other things, his guest parking space. This to confirm that with construction of the new structures, the existing easterly common property line wall will be relocated on the subject property, thus widening the neighboring property by 4", that the section of the property line wall adjacent to the appellant's guest parking space will be approximately 6" (increasing to 10" towards the back or northerly boundary of the space) in height and will have no guard rail or other obstructions. There will be no limitation of use or obstruction of the adjacent guest parking space caused by the proposed development.

The proposed development is entirely within the prescribed Codes enforced by the MB Municipal Code and the Local Coastal Program. As stated in the *Conclusion* of the Staff Report dated February 11, 2004, (page 6), ".....the project meets or exceeds all of the development standards of Title 10 (Zoning Ordinance)". There are no relevant Local Coastal Program issues on which to base this appeal. We respectfully request that the Coastal Commission Staff make the necessary findings and recommendations to deny this appeal. Thank you.

Sincerely,



ELIZABETH SROUR

On Behalf of Michael Roughen, Applicant and Property Owner

COASTAL COMMISSION
A5-MNB-04-137

EXHIBIT # 8

PAGE 1 OF 1

Attached is Resolution No. PC 04-3, as well as other pertinent materials including: excerpt from the Planning Commission Minutes and Staff report to the Commission, dated February 11, 2004, with more detailed background and analysis.

ALTERNATIVES:

1. **RECEIVE and FILE** the Planning Commission's decision of **APPROVAL**.
2. **REMOVE** this item from the Consent Calendar, **APPEAL** the decision of the Planning Commission and schedule for Public Hearing.

Attachments:

- A. Resolution No. PC 04-3
- B. Excerpt from the Planning Commission Minutes of 2/11/04
- C. Planning Commission Report and Attachments dated 2/11/04
(attachments are not electronically available)
- D. Conceptual Plans

cc: Michael Roughen, Applicant
Elizabeth Srour, Applicant's Representative

RoughenCondoCCMemMarch2

COASTAL COMMISSION

The site is currently developed with a two separate buildings built around 1937. As indicated above, the applicant is proposing to replace the existing residences with a 2-unit condominium development comprised of a single building with a total of 4,012 square feet of habitable area. The new structure will consist of three stories with 2 enclosed parking spaces and one guest parking space at ground level for each unit. The parking arrangement as shown takes access from both 15th Place and 15th Street.

PROJECT OVERVIEW

LOCATION

Location: 121-15th Street between Ocean Drive and Highland Avenue on the north side of the street

Legal Description: Lot 23, Block 2, North Manhattan Beach Tract

Area District: III (Beach Area)

LAND USE

General Plan Designation: Medium Density Residential

LCP/LUP Designation: Medium Density Residential

Zoning: (RM) Residential Medium Density

Land Use:

Existing:	Duplex
Proposed:	Two Residential Condominium Units
Permitted:	Two-Units

Neighboring Zoning: All neighboring properties are designated as "Medium Density Residential" and zoned "RM" (Residential Medium Density)

PROJECT DETAILS

Parcel Size: 2,694 square feet (approximately 30' x 89.83')

	<u>Required/Permitted</u>	<u>Proposed</u>
<u>Buildable Floor Area:</u>	4310 square feet (1.6 x 2,694')	4,012 square feet (both units)

COASTAL COMMISSION

The proposed structure is designed with notches and upper level balconies, which adds visual interest and reduces the bulk of the building. Additionally, the project will meet all required building setback and will provide perimeter landscaping to add visual interest to the streetscape

Goal LU-3, Policy LU-3.1: Continue to encourage quality design in all new construction

The proposed structure will replace buildings that were constructed in the late 30's with two new residential condominiums which will comply with all standards of Title 10 (Zoning Ordinance), as well as current Building and Fire codes. The proposed construction reflects the scale and character of surrounding buildings. The building design features architectural articulation with building notches, open area balconies, decorative molding around the windows and doors, wrought iron guardrails, and decorative rafter tails and wood corbels, which provide a quality design.

Goal LU-4, Policy LU-4.1: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

The subject property is a north/south lot which provides vehicle and pedestrian access from the front and rear of the property. These areas protect public access to the beach while respecting the privacy of the beach residents.

COASTAL PERMIT FINDINGS

Written findings are required for all decisions on Coastal Development Permits. Such findings must demonstrate that the project, as described in the application and accompanying material, or as modified by any conditions of approval, conform with the certified Manhattan Beach Local Coastal Program.

1. *The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically policies II. B.1, 2, & 3, as follows:*

II.B.1 The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program - Implementation Program.

The proposed structure is three stories in height and is consistent with the building scale of the surrounding area which consists of one to three story residences. The proposed structure is in accordance with all applicable standards of the Local Coastal Program since the proposed use complies with all the provisions of the "RM" zone, and the required notice, hearing, and findings for the Coastal Development Permit have been met.

COASTAL COMMISSION

EXHIBIT # 9
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which addresses their concerns. No one else has contacted the City either in support or in opposition to the project.

Other Department Comments

Other departments have provided comments on the proposed project and these comments are standard conditions that are normally applied to these types of projects. These conditions will be addressed during the normal building plan check process.

CONCLUSION

Staff supports the project on the basis that it is consistent with the General Plan and Local Coastal Program and is compatible with the residential density in the surrounding area. In addition, the project meets or exceeds all of the development standards of Title 10 (Zoning Ordinance).

Attachments:

- Exhibit A 'Draft' Resolution No. PC 04-
- Exhibit B Site Location Map
- Exhibit C Letters of Concern, dated 1/29/04 and 2/2/04
- Exhibit D Development Plans

cc: Michael Roughen, Applicant
Elizabeth Srour, Applicant's Representative

RoughenPCStaffReport2-11-04

COASTAL COMMISSION

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- b. *The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program - Implementation Program since the structure meets the requirements for open space, setbacks, and buildable floor area, as required by Section A.12.030 of the Manhattan Beach Local Coastal Program.*
- c. *The proposed structure is consistent with the 30' Coastal Zone residential height limit as required by the Local Coastal Program - Implementation Program since the structure has been designed to not exceed 30' in height from the average grade of the property.*
- L. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:
 - a. *Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline since adequate public access is provided and shall be maintained along 15th Street and 15th Place.*
 - b. *Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area since the property is zoned residential, and poses no potential for public or commercial recreational activities..*
- M. In accordance with MBMC Section 11.24.020, Subdivision Vesting Tentative Maps, the vesting map is consistent with the General Plan, the Zoning Ordinance (Title 10) and any other applicable provisions of the Municipal Code in effect at the time the map is approved or conditionally approved, as detailed above.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Coastal Development Permit and Vesting Tentative Parcel Map (No. 060400) application subject to the following conditions.

Standard Conditions

1. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. Expiration. The Coastal Development Permit shall expire one-year from the date of approval if the project has not been commenced during that time. The Director of Community Development may grant a reasonable extension of time for due cause. The applicant or authorized agent prior to the expiration of the one-year period shall request said time extension in writing.
3. Interpretation. Any questions of intent or interpretation of any conditions will be resolved by the Planning Commission.
4. Inspections. The Community Development Staff shall be permitted to inspect the site and the development during construction subject to 24-hour advance notice.
5. Assignment. The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. A completed application and application fee as established by the City's Fee Resolution;

COASTAL COMMISSION

EXHIBIT # 9
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10

2. All Residential Condominium Standards per Municipal Code Section 10.52.110 shall be imposed, and considered as part of the resolution.

Parcel Map Conditions

1. A survey suitable for the purposes of recordation shall be performed by a Civil Engineer or Land Surveyor licensed in the State of California, including permanent monumentation of all property corners and the establishment or certification of centerline ties at the intersections of :
 - a. Highland Avenue with 15th Street.
 - b. Highland Avenue with 15th Place.
 - c. Ocean Avenue and 15th Street.
 - d. Ocean Avenue with 15th Place.
2. This subdivision is approved as a condominium project whereby the owners of the units or air space will hold an undivided interest in the common areas which will, in turn, provide necessary access and utility easements for the units.
3. The City of Manhattan Beach, by approval of an air space condominium, does not guarantee the allowable density of units located on the subject parcel at any time in the future.
4. Unit ownership is an intangible portion of multiple residential properties and ownership of a unit does not parallel or emulates ownership or single-family property or use.
5. Vesting Tentative Parcel Map No. 060400 shall be approved for an initial period of 3 years with the option of future extensions.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **February 11, 2004**, and that said Resolution was adopted by the following vote:

AYES: Kuch, Savikas, Simon, O'Connor,
Chairman Montgomery

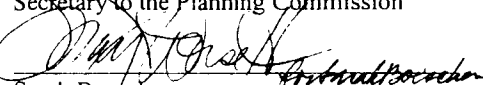
NOES:

ABSTAIN:

ABSENT:


RICHARD THOMPSON

Secretary to the Planning Commission


Sarah Boeschen

Recording Secretary

RoughenPC Res2-11-04

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entrance for this project will be on the east side of the building, which is typical for condominiums in this area, and the grade will be raised in order that the lower level meets the Uniform Building Code definition of a basement to capture as much square footage as possible. The main entrance to the building will be on the second floor located on the east side of the building; the building meets the minimum side yard setback of 36 inches for access purposes; and the wall separating the two properties will be on the proposed subject side leaving the neighboring property with 7½ feet for the required guest parking.

In response to Councilmember Ward's question regarding the neighbor's use of their guest parking space if the wall were to be raised, Associate Planner Moreno clarified that the Code only requires that the neighbor's guest parking space be 7½ feet wide. He explained that whenever possible, staff recommends that there should not be any fencing placed on the property line, however, in this case, it is a requirement in order for the subject property to meet the basement definition; without the wall, it would be considered a three-story building.

Council held discussion regarding the City's codes and regulations, what efforts have been made to mitigate these types of access problems and by what authority the project could be denied.

City Attorney Robert Wadden clarified that with the permit process, which to a degree is discretionary, the general rule is that the City has the ability to condition the permit based upon burdens created by the development, however, the developers rights must be balanced against the impact on the neighborhood of the development.

Associate Planner Moreno addressed the appellant's issues explaining the process for determining building height and pointing out that the survey used by the City for the subject condominium property and the survey used when the adjoining condominium project was built in 1981 differ by less than 2 inches. In regard to the building overhang clearance, he conveyed that the plans submitted clearly show that the overhang meets the 8-foot requirement. He clarified that the survey markers have not been set yet because the applicant has not submitted plans for demolition or for a building permit. And, in conclusion, the daylight plane requirement applies only to commercial buildings adjacent to residential properties.

Appellant Lynn Harris, 120 15th Place, introduced her husband, **Dave Harris** and co-appellant **Okie Miller**, whose professional name is **Chuck Harris** - no relation. Ms. Harris spoke of the hopelessness and loss of quality of life and privacy in Manhattan Beach due to mansionization and implored the Council to think about making changes to some of the Ordinances regarding building so that the Council may have some power to shape and influence the nature of building in the City. She pointed out a few inaccuracies in the staff report and referred to comments made by Planning Commissioners that there needs to be more communication between the neighbors to solve these issues, however, until such time as the City Council develops regulations to further restrict buildings, they cannot oppose the proposal. She emphasized that not all options have been explored; that mediation could solve some of their issues; that while the builder has rights, he is not going to live in the house, he is going to sell it; and that several changes were presented to the owner which they would compensate him for. She reiterated conversations regarding the removal of the wall and privacy enhancements and whether they would be followed through on. She stated that the appeal is based on discrepancies in the survey; that they are going to obtain their own survey; and that they would be happy to discuss ways to try to minimize the adverse affects. While understanding that some of the issues may work themselves out in Plan Check, she urged Council not to approve the project in its current form and referred to the great anxiety that this project has caused them.

Okie Miller, 125 15th Street, commented that the problem seems to be a case of the builders against the homeowners in Manhattan Beach; it should not be allowed to happen and adverse

that if there was an issue, it would have to be corrected to comply with the Building and Zoning Code. She pointed out the topography and certain basic design elements that determined the basic layout of the building and guest parking. In regards to the retaining wall between the two properties, she reported that the appellants will gain four inches in width for their guest parking because it will be completely on the applicant's property and the railing can be removed, however, the wall itself will be six inches higher. She stated that the current common property wall cannot be maintained because it is two feet over the current height maximum and is sub standard and that the hot tub and guest parking will be resolved during the Plan Check process. In conclusion she urged Council to approve the project as it complies with all the Codes, that the issues all boil down to view; and that this applicant deserves the same opportunity that the appellants were given when their home was built.

Mayor Aldinger opened the Public Hearing at 8:56 p.m.

Esther Besbris, 2nd Street, stated that a glaring omission to the City Council's Work Plan is the adverse impacts due to construction that not only affect views but involve lack of sunlight, air and privacy. She reported that of the 200 or more building permits issued annually, Council hears only a few cases because residents get frustrated with the appeal process, give up and move away. She pointed out that a major goal of the revised General Plan is to keep a low profile and maintain a small town atmosphere and that is what brings a lot of people to Manhattan Beach. She spoke of respecting property owner's rights while being responsive to ones neighbors and other coastal cities that have already addressed this issue. She concluded by suggesting that Council put a halt to this and all other new construction until a reasonable adverse impact plan can be created.

Martha Andreani, 117 10th Street, questioned giving the developer the go ahead when the City doesn't have the current plans and the final plans have yet to be developed. She concurred with the appellants that the project is intrusive and another case of mansionization urged the Council not to perpetuate the problem and give the appellants a continuance.

Unidentified Speaker, No Address Provided, stressed that bulk and density is ruining the City and that the Council should represent the public, not loose building codes.

Mayor Aldinger closed the Public Hearing at 9:02 p.m.

In rebuttal, **Mr. Miller** emphasized that the applicant must comply with the Code no matter how tall he wants to build. He reiterated the adverse impacts and stated that something needs to be done today, not tomorrow, regarding these impacts. He acknowledged the applicant's right to make a profit but that he will not let them "cage him in like an animal". Mr. Miller concluded by stating that he would appreciate it if the project would be lowered by 12 inches, however he would appreciate 18 inches.

Commenting that his father was a contractor and that he has respect for contractors, **Mr. Harris** stated that as appellants, they would work with staff to create a variance for the overhang for the guest parking area. He concluded by stating that complying with the Code doesn't resolve issues with neighbors.

Councilmember Ward commented that he was encouraged to hear **Mr. Roughen, the applicant**, commit to work with the appellants to make their guest parking situation work adding that, legally, he didn't know how the City could approve a project that would throw another resident out of compliance. Believing that the question regarding the height would be worked out during the Plan Check process, he stated that he didn't think that it should hold up the process and that he was satisfied with what he had heard this evening.

Stating that she was not comfortable just hearing from the applicant's representative,

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Commissioner Kuch indicated that he would support staff's recommendation.

Commissioner O'Connor said that he agrees with the comments of Commissioner Simon. He indicated that he also has concerns in granting an extension if the applicants were not moving ahead with the project in a reasonably expeditious manner. He said that it is comforting to hear from staff that the applicants are making progress and have already paid a sizable permit fee. He said that he would support the extension.

In response to a question from Chairman Montgomery, Associate Planner Haaland stated that the applicants have indicated that construction would begin in June at the earliest.

Chairman Montgomery said that he would support staff's recommendation.

A motion was MADE and SECONDED (Savikas/O'Connor) to **APPROVE** a request for one year time extension for a use permit for the property located at 330 South Sepulveda Boulevard

AYES: Kuch, O'Connor, Savikas, Simon, Chairman Montgomery

NOES: None

ABSENT: None

ABSTAIN: None

Director Thompson explained the 15 day appeal process and stated that the item will be placed on the City Council's Consent Calendar for their meeting of March 2, 2004.

PUBLIC HEARINGS

**04/0211.1 COASTAL DEVELOPMENT PERMIT and VESTING TENTATIVE
PARCEL MAP 60405 to Allow Construction of a Two-Unit Condominium at
121 15th Street (Roughen)**

Associate Planner Daniel Moreno summarized the staff report. He commented that the proposed structure would consist of a three story building with two enclosed parking spaces and one guest parking space as required for condominium projects. He indicated that staff has evaluated the project and finds that it is in compliance with all of the minimum requirements for buildable floor area; parking; building setbacks; open space; and building height. He stated that staff has determined that the proposal is consistent with the General Plan and Local Coastal Program; is compatible with the residential density of the surrounding area; and meets or exceeds all of the development regulations of Title 10, Section 1052 regarding the standards for condominium uses. He said that staff supports the proposal. He commented that staff did meet with the property owners to the east of the site prior to the meeting who had concerns regarding parking

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1
2 **Joyce Flood**, the project architect, indicated that **David Harris**, the property owner of the rear
3 unit to the east of the subject property, requested that the ceiling height of the top floor be
4 lowered. She indicated that she explained to him that the purpose of the ceiling height as
5 proposed is to allow for future mechanical equipment that would run on the ceiling and to allow
6 for a 6 inch curb on the roof deck that would allow for controlled drainage on the roof.

7
8 **Chuck Harris**, 125 15th Street, said that no one has spoken to him regarding the project. He
9 commented that the applicant is building the project out of greed and without consideration to the
10 neighbors. He commented that the applicant is proposing to build a porch very close to his home
11 that would face their bedroom and greatly invade their privacy. He indicated that the average
12 height of a ceiling is 7 ½ feet to 8 feet, and the height of the ceiling for the proposed structure is
13 9 feet. He said that the applicant is following the law to the exact extent of the law, but in some
14 instances following the law is actually breaking the intent. He indicated that he has a right to be
15 able to live in his neighborhood, to have privacy and open space, and to have sunlight reach his
16 home. He said that the applicant is arrogant and rude to build a proposal that creates such a large
17 impact to the neighbors. He commented that the Jacuzzi on his property was built before he
18 moved into his home. He said that he is requesting and pleading that the height of the proposed
19 structure be reduced by at least 18 inches, and he would prefer for the height to be reduced by 24
20 inches. He said that he was never approached by the applicant.

21
22 **Lynn Harris** 120 15th Place, read letters from her husband, **David Harris**, and herself that were
23 provided to the Commissioners with the staff report. She stated that they have had cordial
24 discussions with the applicant and feel that perhaps an agreement can be reached regarding their
25 egress and privacy concerns; however they feel it is up to the Commission to enforce the spirit of
26 the law and intent of the Code regarding the height and bulk of the project. She said that
27 currently the City has no control over preserving views; however she feels the Commission can
28 impose rules to restrict builders from blocking the views from adjacent properties. She invited
29 the Commissioners to their home to view the negative impact that the proposed structure would
30 have to their property. She commented that it is not the fault of the applicant that they are taking
31 advantage of the laws established by the City.

32
33 **Mrs. Harris**, 125 15th Street indicated that one of the most beautiful features of their home is
34 that there are windows across the entire side facing the ocean, and their privacy should be
35 respected. She said that they would not be able to open their windows if the project is
36 constructed as proposed because the neighbors would be able to view directly into their home.

37
38 **Ms. Srour** said that when the property at 125 15th Street was built in 1981, it had the result of
39 blocking the view to the east. She stated that the applicant is being asked to observe a different
40 set of standards than apply to the neighbors to the east, which would result in a loss of continuity.

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1
2 Commissioner O'Connor commented that it is always a very difficult situation when neighbors
3 raise issues with a construction project and have such strong emotions regarding what is expected
4 in their own homes. He said that the Commission needs to hear such issues as part of the
5 process. He commented that he would be the first to oppose the proposal if he had any
6 understanding that laws were being violated, but no such evidence has been provided. He
7 indicated that he does have concerns with the existing Zoning Ordinances, and he would
8 encourage **Mr. Harris** to address them through the forum of the City Council. He commented
9 that the Commission is an advisory body to the City Council, and the Council is guided by the
10 General Plan. He commented that the Zoning Ordinance might be an issue that the Council
11 would consider at the upcoming public town hall meeting regarding their work plan for the
12 coming year if such input was provided by the community. He commented that the only method
13 by which continuing issues with the neighbors can be resolved is through communication. He
14 indicated that the Commission does have a well defined purview of authority, and the project
15 does meet the current Zoning Ordinance. He said that he is not able to find a substantial reason
16 to object to the project, and he would support the proposal.

17
18 Commissioner Kuch stated that the one most significant event that he has been involved with on
19 the Commission is the passing of the new Bulk and Volume Ordinance; however, the Ordinance
20 does not apply to the area of the subject property. He commented that he would have like for the
21 Ordinance to include a larger front setback requirement of perhaps 8 rather than 6 percent. He
22 indicated that the Bulk and Volume Ordinance was recently re-evaluated, and staff has done a
23 great job in addressing problems with the Ordinance so that developers would not work around
24 them. He said that he does not see anything in the subject proposal that should be denied. He
25 commented that he does sympathize with the neighboring residents, but he feels that he must be
26 consistent with prior decisions that have been made by the Commission. He said that until the
27 such time as the City develops regulations to further restrict buildings, he cannot oppose the
28 proposal.

29
30 Chairman Montgomery said that being a former resident of the Sand Section, he also has lived in
31 homes located very close to his neighbors. He indicated that the project meets the requirements
32 of the General Plan and Local Coastal Program, and he would support it.

33
34 A motion was MADE and SECONDED (Simon/Savikas) to approve the draft Resolution for a
35 COASTAL DEVELOPMENT PERMIT and VESTING TENTATIVE PARCEL MAP 60405 to
36 Allow Construction of a Two-Unit Condominium at 121 15th Street

37
38 AYES: Kuch, O'Connor, Savikas, Simon, Chairman Montgomery
39 NOES: None
40 ABSENT: None

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