

CALIFORNIA COASTAL COMMISSION

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

F6b

RECORD PACKET COPY

Filed: 10/7/2005
 49th Day: 11/25/2005
 180th Day: 4/5/2006
 Staff: PE-LB /
 Staff Report: 10/27/2005
 Hearing Date: 11/18/2005
 Commission Action:



STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT	City of Redondo Beach
DECISION	Approval with conditions
APPEAL NUMBER:	A-5-RDB-05-380
APPLICANT:	Carey Martz
PROJECT LOCATION:	104 Avenue G, Redondo Beach (Los Angeles County)
PROJECT DESCRIPTION:	Construction of two unit residential condominium
Appellant	Todd Valdes

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission, after public hearing, determine that **no substantial issue** exists with respect to the grounds on which an appeal has been filed. The proposed project is located in the appeal area, within 300 feet from the top of the seaward face of the coastal bluff, but it is not located between the first public road and the sea. In this area, the standard of review for an appeal of a locally issued coastal development permit is the consistency of the locally approved coastal development permit with the certified local coastal program (LCP). The applicant proposes to demolish a single-family house and construct a two-unit condominium. The appellant asserts that the project would result in a significant increase in the bulk and square footage of the development on the lot subject to this appeal, that it would double the height and bulk of the pre-existing structure. The appellant also asserts that the proposed development is inconsistent with a state law protecting the use of his solar system because it shades his solar system, which was approved by the City and built prior to the City's action on the subject coastal development permit. Finally, the appellant asserts that the contents of the Local Coastal Program and the boundary of the certified area are not clear and not publicly available.

Solar access is not addressed in the LCP or in the Coastal Act. The LCP allows reconstruction of existing residential structures as long as the development does not exceed two stories or 30 feet. The City has granted a conditional use permit and

approved a tract map. The City has reviewed the design of the project. The project is consistent with the LCP, and the City has followed the procedures prescribed in its implementation ordinance in granting the coastal development permit. Therefore, the appeal raises no substantial issue with respect to the issues on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Redondo Beach, Notice of Final Action permit 2005-07-CDP-007
2. Commission appeal A-5-RDB-04-261
3. City of Redondo Beach certified Land Use Plan, 1981, amended 1984
4. California Coastal Commission Staff Recommendation Major Amendment request No RDB-MAJ-1-2000, City of Redondo Beach certified Land Use Plan.
5. City of Redondo Beach certified Land Use Plan, approved January 11, 2001 2001.
6. California Coastal Commission Staff Recommendation: City of Redondo Beach, Local Implementation Plan (LIP) Request No. 1-2002 to the City of Redondo Beach Local Coastal Program (RDB-LCP-01-02). Request for segmentation of Coastal Zone Area One from the Harbor-Pier, Power plant and Utility Corridor area (the latter three being collectively known as the "Heart of the City"), and to certify the Implementation Ordinances applicable to Redondo Beach Coastal Zone Area One as consistent with the certified Land Use Plan for that area, thereby creating a fully certified segment of the City of Redondo Beach. Permit issuing authority within the newly certified area (Coastal Zone Area One) is also included in the request. (Meeting of April 8, 2003)
7. California Coastal Commission Staff Recommendation: City of Redondo Beach Major LCP Amendment No. RDB- MAJ- 1-2003 (amending geographic segmentation, changing the LUP designation of eleven lots from commercial to residential; certifying zoning for those lots that is consistent with the proposed LUP amendment and incorporating a second-unit ordinance into the LIP.)
8. City of Redondo Beach, certified Local Coastal Program, Area 1, 2003

I. APPELLANTS' CONTENTIONS

The appellant contends that:

"The proposed development doubles the size and bulk of the existing single family home, thereby causing deterioration of existing scenic and visual qualities, (pub res. Code. § 30251.) The Redondo Beach Planning Commission, and the City Council on appeal, both failed to consider the adverse impact of the proposed development on pollution standards and energy consumption (Pub. Res. Code, §30253 subds. (3) and (4).

"The size and siting of the proposed development will shade an existing 1.7 kW photovoltaic (PV) solar system currently installed on a neighboring property at 1503 S. Catalina Ave. The solar system was designed, permitted by the City of Redondo

Beach, and constructed before notice was given of the adjacent proposed development. Three months after completion of the PV system the City posted notice of the proposed development. Objection was made before the Planning Commission hearing and appeal made to the City Council. While City Council conceded that the proposed development would have an adverse impact on the existing PV system, the Council denied the appeal.

"On January 1, 2005, AB 2473 became law. AB 2473 expressly states that it is the intent of the Legislature that local governments should not unreasonably restrict the ability of homeowners to install solar energy systems. (Gov. Code, § 65850.5.) The Legislature stated that it intended that local governments "comply not only with the language of this act, but also the legislative intent to encourage the installation of solar energy systems by removing obstacle to and minimizing cost of permitting such systems." While the City of Redondo Beach did not restrict the installation of the current PV system, it did grant a CDP to an adjoining development, which, as conceded by the Council, creates an obstacle restricting the use and increasing the cost of operation of the current system. The actions by Redondo Beach do not comply with the broad intent of the Legislature to encourage installation and use of solar energy. This intent is mirrored in Section 30253, which requires new development to minimize air pollution caused by the generation of electricity in plants burning fossil fuels and to minimize energy consumption. The proposed development is contrary to these goals as conceded by the Council. The findings of the Planning Commission and City Council do not support a conclusion that the permit was issued after a full and fair discussion of the adverse impact of the proposed development on pollution standards and energy consumption and should be reversed for consideration of these issues." (Appeal of A5-RDB-05-380, Todd Valdes. Exhibit 2)

In response to a letter indicating that the appeal appeared to be a frivolous appeal under Coastal Act Section 30620(d), (Exhibit 5), the applicant questioned whether there was a certified local coastal program covering the project area, or whether the City or Coastal Commission staff applied LCP standards in reviewing projects. As noted above, the LCP is certified and the project is located in Area 1, the certified area of the City (Exhibits 7 and 8.) The City findings clearly indicate that the City analyzed the project for consistency with the local coastal program. In addition to LCP standards of height and density, the City considered the bulk and orientation of the building under a design review ordinance. The Council minutes on the project concentrates on the design of the structure and the City's obligations under Government Code 65850.5 (Exhibit 9.) The Council findings on appeal (Exhibit 4) indicate that the project conforms with the LCP, and in response to the appellant's contention that the staff failed to consider easements for light, air and view, the Council found that the City does not have any specific light air or view protection ordinances (Exhibit 9).

II. LOCAL GOVERNMENT ACTION.

On September 16, 2005 the City of Redondo Beach approved CDP 2005-07-cdp-007 in conjunction with an Exemption Declaration (CEQA), Conditional Use Permit, Planning Commission Design Review and Vesting Parcel Map (No. 62690) to permit construction of a two unit residential condominium development. The City imposed 27 conditions that addressed setback, appearance, safety, construction impacts, and water quality measures both prior to and after construction. (See Exhibit 4)

III. APPEAL PROCEDURES.

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.¹ 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)].

Section 30603(a)(1) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location. The proposed project is located within three hundred feet of the beach or top of the seaward face of the coastal bluff, hence it is appealable. However, the proposed project is located inland and adjacent to the first public road paralleling the sea.

Section 30603 of the Coastal Act states, in part:

- (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.

¹ The Commission effectively certified the City of Redondo Beach LCP on September 11, 2003.

The grounds for appeal of an approved local coastal development permit 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.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of **no substantial issue**. If there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will schedule a de novo public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, in order to approve a project located between the first public road and the sea, findings must be made that the application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations ("14 CCR") further explain the appeal hearing process.

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 applicant, 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. [14 CCR § 13117]

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue. The Commission's finding of substantial issue voids the entire local coastal development permit action that is the subject of the appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds cited for the appeal regarding conformity of the project with the City of Redondo Beach Local Coastal Program 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-RDB-05-380 raises **No Substantial Issue** with respect to the grounds on which the appeal has been filed."*

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

Resolution to Find No Substantial Issue for Appeal A-5-RDB-05-380

The Commission hereby finds that Appeal No. A-5-RDB-05-380 does not present a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The proposed project includes demolition of a 1,620 sq. ft. single-family house and construction of residential duplex on an existing Low Density Multiple-Family, (R-3A) residentially designated 5,003 sq. ft. lot. The lot in question is located one lot east (inland) of the corner of the Esplanade and Avenue G in the City of Redondo Beach. The Esplanade is the first public road inland of the sea, and in this part of Redondo Beach, runs along a City bluff-top park, which is in turn, adjacent to the state beach. Avenue G is an east-west street that terminates at The Esplanade. The lot in question faces Avenue G adjacent to a lot that faces Esplanade. The locally issued permit for development on the lot is subject to this appeal because it is located within 300 feet in of the top of the seaward face of the coastal bluff.

The proposed project is located in Area 1 of the Coastal Zone, the certified segment of the City of Redondo Beach coastal zone (Exhibits 7 and 8.) The project complies with the LCP development standards. The proposed project is 30 feet above existing grade and contains two units. The lot is 5,003 square feet, and under the R-3A zoning may have two units with approval of a conditional use permit. A conditional use permit, a Planning Commission design review action, and a tract map were considered and approved along with the coastal development permit. The proposed project contains two stories, a loft, and a partial basement, which complies with the definition of two stories in the City's certified LCP. The project complies with applicable use, height, setback, and parking standards. Therefore, the project complies with the certified LCP with respect to density, use, and development standards. There is no standard in the certified local coastal

program that limits replacement of existing structures with a structure that complies with the applicable LCP development standards

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 decision on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. Staff is recommending that the Commission determine that the appeal raises **no substantial issue** in regards to the grounds of the appeal for the reasons set forth below.

The local government analyzed detailed scaled plans for the project to make its determination of the project's compliance with the development standards of the certified local coastal program. The development is a two-unit condominium on a lot surrounded by lots that are already developed, many of them with two-unit developments of a similar size. The project complies with the written standards of the certified local coastal program and involves no exceptions to the adopted standards of the LCP. The development consists of the development of two units on one lot, of two stories and a loft over a basement in an area marked by such development. The project complies with LCP standards to protect public parking, community character, and scale, which are the principal resources addressed in the LCP for this part of Redondo Beach. Approval of this development is consistent with other decisions granting coastal development permits in this area by the City and before certification

by the Commission. The proposed project complies with the certified LCP and will have no direct or cumulative effect on coastal resources, public views, and public access.

The LCP does not include policies that would allow or require the City to reduce the height or bulk of development that complies with the LCP in order to protect a neighbor's solar access. The appeal raises a statewide issue concerning whether a local government is required to regulate development in such a manner to avoid adversely impacting the functioning of an approved solar system. However, solar access is not an issue that is addressed in the Coastal Act, and the appeal does not raise a substantial issue of compliance with the certified LCP or the public access policies of the Coastal Act.

C. Certified Local Coastal Program.

On January 11, 2001, the Commission approved an amendment to the certified City of Redondo Beach Land Use Plan with modifications. The amendment, RDB-1-00, along with three preceding amendments, brought the Land Use Plan, which was certified in 1981, into consistency with the updated General Plan. The designation approved for the area in which the proposed two-unit condominium is located was Low Density Multi-family Residential, with a thirty-foot, two-story height limit. The City adopted the suggested modifications; the Land Use Plan as amended was effectively certified. However, in 2001 there was no implementation ordinance. On April 8, 2003 the Commission approved segmentation of the Redondo Beach coastal zone, which meant they agreed to consider the Redondo Beach Local Coastal Program in two stages, one stage encompassing the areas of Redondo Beach that were privately owned, already subdivided, and developed residentially and commercially (Area 1). The second stage would encompass publicly owned land and land that was likely to recycle to different uses. This land included the publicly-owned harbor/pier area, the existing steam power plant, and privately held commercially and industrially zoned land located in the immediate environs of these facilities (Area 2.) On April 8, 2003 the Commission approved 1) segmentation of Redondo Beach into two "segments" for purposes of acting on the local coastal program, and 2) the implementation ordinances for "Area 1," where the proposed development is located. On September 11, 2003 the Commission concurred that the City had adopted the changes that the Commission suggested the preceding April, and the local coastal program applicable to Area 1 was effectively certified.

Since its 2003 action, the Commission has approved several amendments to the LUP and LIP; including a change in the segmentation boundary applicable to some lots on the northern end of Catalina Avenue near Gertruda St., incorporation of a second unit ordinance, and additional design standards. None of these changes affected the use, the density, or the 30-foot height limit applicable to the lot under consideration.

D. Applicable Local Coastal Program policies.

1. Area of Jurisdiction. The proposed project is located in Area 1 of the Redondo Beach coastal zone, in the appeal area. The City of Redondo Beach issues coastal development permits in this area. .
2. Designation of lot in certified Land Use Plan and Implementation Program
The proposed lot is designated low density multiple family, R-3A in the certified Local Coastal Program. Multi- family use and condominiums require a conditional use permit. The City approved a conditional use permit.
3. Development standards for R-3A designated lots include the following:
 - 10-5.515 Development standards: R-3A low density multiple-family residential zone.
 - (a) **Lot area per dwelling unit.** The maximum number of dwelling units permitted on a lot shall be as follows:
 - (1) Lots less than 5,000 square feet: one dwelling unit.
 - (2) Lots 5,000 square feet or greater: not more than one dwelling unit for each 2,490 square feet of lot area.
 - (c) **Building height.** No building or structure shall exceed a height of thirty (30) feet. (See definition of building height in Section 10-5.402).
 - (d) **Stories.** No building shall exceed two (2) stories (see definition of story in Section 10-5.402).

Height is defined in section 10-5.402 of the IP in the following way:

- (22) **"Building height" or "height"** shall mean the vertical distance as measured continuously along a line at existing grade bisecting the width of the lot to the highest point of a building or structure, except as provided elsewhere in this chapter (see illustration below). (Exhibit)

E. Applicability of state standards regarding solar access.

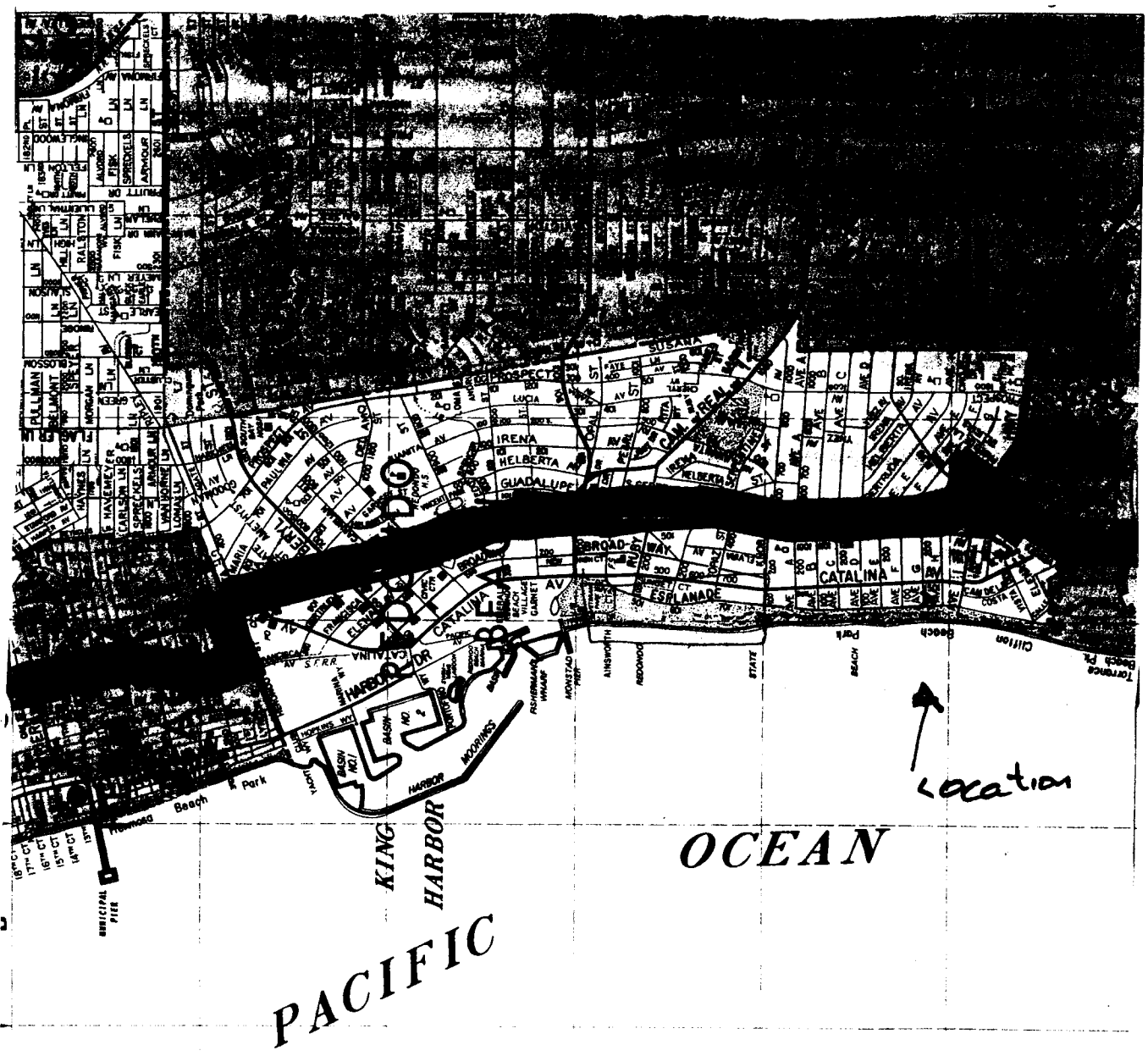
The statute that protects the right to install solar systems is not part of the Coastal Act. As the appellant points out, it is found in the Government Code, not the Coastal Act. Nothing in the Coastal Act authorizes local government or the Commission on appeal to reduce the height or bulk of a structure in order to maintain solar access for a neighbor. The City would enforce any state law that had that requirement, independent of activities undertaken to carry out the Coastal Act. A parallel example is local government's responsibility under the Government Code to assure replacement housing when a structure that includes low and moderate cost housing is demolished (Gov. Code 65590). Local government enforces that section of the Government Code outside its responsibilities under the Coastal Act. Finally, the standard of review for issuing a coastal development permit in Redondo Beach, and for reviewing that permit on appeal, is the

certified LCP. The solar access section of the government code is not cross-referenced in the LCP, and the certified local coastal program.

The Commission acknowledges that the certified local coastal program requires the City to review projects for consistency with the Coastal Act as well as for consistency with the LCP. The Coastal Act includes no standards requiring maintenance of solar access. This project does not interfere with public access to the beach or access support facilities –it is replacing a single family house with a two unit condominium development. The applicant also indicates that certain sections of the Coastal Act that require the Commission and/or local government to protect community character may apply in this case. In reviewing a past project in Redondo Beach, the Commission has found that where there are specific development standards in the LCP, the development standards of the certified LCP prevail over any possible requirement to restrict height and bulk based on “consistency with the Coastal Act” (A-5-RDB-04-261 Doyle.) In this case, the proposed development complies with the LCP standards.

F. Conclusion

With the exception of projects located between the sea and the first public road involving public access to the shoreline, the Commission cannot apply its own interpretation of Coastal Act standards when reviewing an appeal of a locally issued coastal development permit. Instead, it must review locally issue coastal development permits for conformity with the standards of the certified local coastal program (LCP.) This project is not located in an area where that exception applies, and poses no issues concerning public shoreline access. The City's approval of the proposed permit conforms to the use and development standards of the certified LCP. Therefore; the Commission finds that no substantial issue exists with respect to the City's approval of Local Coastal Development Permit No. 20005-07-cdp-007.



PACIFIC OCEAN

COASTAL COMMISSION
A 5-RDB-05-380

EXHIBIT
PAGE 1 OF 1

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

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

The proposed development doubles the size and bulk of the existing single-family home, thereby causing deterioration of existing scenic and visual qualities. (Pub. Res. Code, § 30251.) The Redondo Beach planning commission, and city council on appeal, both failed to consider the adverse impact of the proposed development on pollution standards and energy consumption. (Pub. Res. Code, § 30253, subs. (3) and (4).)

The size and siting of the proposed development will shade an existing 1.7 kv photo-voltaic (PV) solar system currently installed on a neighboring property at 1503 S. Catalina Avenue. The solar system was designed, permitted by the City of Redondo Beach, and constructed before notice was given of the adjacent proposed development. Three months after completion of the PV system, the City posted notice of the proposed development. Objection was made before the planning commission hearing and appeal made to the city council. While the city council conceded that the proposed development would have an adverse impact on the existing PV system, the council denied the appeal.

On January 1, 2005 AB 2473 became law. AB 2473 expressly states that it is the intent of the Legislature that local governments should not unreasonably restrict the ability of homeowners to install solar energy systems. (Gov. Code, § 65850.5.) The Legislature stated that it intended that local governments "comply not only with the language of this act, but also the legislative intent to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting such systems." While the City of Redondo Beach did not restrict the installation of the current PV system, it did grant a CDP to an adjoining development which, as conceded by the council, creates an obstacle restricting the use and increasing the cost of operation of the current system. The actions by Redondo Beach do not comply with the broad intent of the Legislature to encourage installation and use of solar energy. This intent is mirrored in Section 30253 which requires new development to minimize air pollution caused by the generation of electricity in plants burning fossil fuels, and to minimize energy consumption. The proposed development is contrary to these goals, as conceded by the council. The findings of the planning commission and city council do not support a conclusion that the permit was issued after a full and fair discussion of the adverse impact of the proposed development on pollution standards and energy consumption and should be reversed for consideration of these issues.

COASTAL COMMISSION
A 5- RDB-5360
EXHIBIT # 2
PAGE 1 OF 1

TODD A. VALDES
1503 SOUTH CATALINA AVENUE
REDONDO BEACH, CALIFORNIA 90277
310-871-2402

October 6, 2005

NOISSIWWOD 1A3VO
CALIFORNIA
COASTAL COMMISSION

OCT 7 2005

South Coast Region

RECEIVED

Ms. Pam Emerson
Los Angeles Area Supervisor
South Coast Area Office
California Coastal Commission
200 Oceangate Avenue, Suite 1000
Long Beach, CA 90802-4302

Re: Appeal A5-RDB-05-380 (Appeal from Planning Commission Decision
Approving Coastal Development Permit No. 2005-07-CDP-007 for 104 Avenue
G Development)

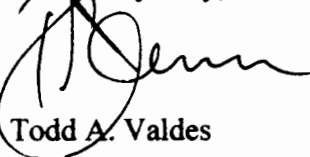
Dear Ms. Emerson:

Thank you for your letter dated September 28, 2005, which I received on Monday
October 3, 2005. Enclosed please find a check for \$300 in accordance with Section
30620, subparagraph (d), of the Public Resources Code.

I note that your letter states that no claim was made in the appeal that the decision failed
to adhere to the standards of the local coastal program. I note that the Planning Director
of the City of Redondo Beach indicated on the record that no LCP had been adopted for
the portion of the city at issue. I note that the City of Redondo Beach has not provided, at
my request, any record of an LCP covering that area. Further, my enquiry to the staff at
the South Coast Area Office concerning the LCP was re-directed to the San Francisco
office. I have not received a response from your San Francisco office concerning the
boundaries of the existing LCP, or the text of the LCP. Any determination by the CCC
that I "do not raise and cannot demonstrate that the proposed project is inconsistent" with
the LCP seems premature given the confusion over the existence and boundaries of an
LCP covering 104 Avenue G in Redondo Beach.

I look forward to discussing this further with you.

Yours very truly,



Todd A. Valdes

COASTAL COMMISSION
A5 RDB 5.380

EXHIBIT # 3
PAGE 1 OF 1

COASTAL COMMISSION

ASRDB-5350

EXHIBIT # 4

PAGE 1 OF 3



Planning Department

415 Diamond Street, P.O. Box 270
Redondo Beach, California 90277-0270
www.redondo.org

tel 310 372-1171
tel 310 318-0637
fax 310 372-8084

RECEIVED
South Coast Region

September 7, 2005

SEP 12 2005

California Coastal Commission
South Coast Area Office
Attn: Pam Emerson
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

CALIFORNIA
COASTAL COMMISSION

NOTICE OF DECISION

Notice is hereby given that on September 6, 2005, the City Council of the City of Redondo Beach approved the following request for a Coastal Development Permit. The decision of the City Council is final within the City's review system. The project is also appealable to the Coastal Commission as indicated below.

Applicant: Carey Martz
111 N. Sepulveda Blvd. #230, Manhattan Beach, Ca. 90266

Owner: Same as applicant

Location: 104 Avenue G, Redondo Beach

CDP #: 2005-07-CDP-007

Project Description: Said approval is in conjunction with an Exemption Declaration, Conditional Use Permit, Planning Commission Design Review, and Vesting Parcel Map No. 62690 to permit the construction of a two-unit residential condominium development.

In granting this Coastal Development Permit, the following findings were made:

- a) The proposed development is in conformity with the Certified Local Coastal Program because it is consistent with the Low-Density Multiple-Family Residential (R-3A) zone and associated development standards.
- b) That the proposed development is not located between the sea (or the shoreline of any body of water located within the coastal zone) and the first public road paralleling the sea, and is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code (commencing with Section 30200).
- c) That the decision-making body has complied with any CEQA responsibilities it may have in connection with the project, and that, in approving the proposed development, the decision-making body is not violating any CEQA prohibition that may exist on approval of projects for which there is a less environmentally damaging alternative or a feasible mitigation measure available.

COASTAL COMMISSION

AS RDB 5-380

The following conditions were applied along with the approval:

EXHIBIT # 4

PAGE 2 OF 2

1. The precise architectural treatment of the building exterior, ~~roof, walks, walls, and driveways~~ shall be subject to Planning Department approval prior to issuance of a building permit.
2. The applicant shall submit a landscape and sprinkler plan, including a clock-operated sprinkler control, for approval prior to issuance of building permits.
3. The landscaping and sprinklers shall be installed per the approved plan, prior to final inspection.
4. If selected design of the water and/or heating system permits, individual water shut-off valves shall be installed for each unit, subject to Planning Department approval.
5. The garage doors shall be equipped with remotely operated automatic door openers.
6. No plastic drain pipes shall be utilized in common walls or ceilings.
7. Subject to approval of the Fire Department, a horn/strobe fire alarm may be installed on the exterior of the units instead of the typical 8-inch bell-type fire alarm.
8. The sidewalk, curb, and gutter shall be replaced, as necessary, to the satisfaction of the Engineering Department.
9. The applicant shall provide on-site erosion protection for the storm drainage system during construction, to the satisfaction of the Engineering Department.
10. The applicants and/or their successors shall maintain the subject property in a clean, safe, and attractive state until construction commences. Failure to maintain the subject property may result in reconsideration of this approval by the Planning Commission.
11. The Planning Department shall be authorized to approve minor changes.
12. In the event of a disagreement in the interpretation and/or application of these conditions, the issue shall be referred back to the Planning Commission for a decision prior to the issuance of a building permit. The decision of the Planning Commission shall be final.
13. All common property lines, exclusive of the front setback, shall have a six-foot high decorative masonry wall or a six-foot high mixed construction wall. Mixed construction walls shall consist of a masonry base and masonry pilasters, which shall be composed of at least thirty (30%) percent masonry and seventy (70%) percent wood. Projects may only utilize existing property line walls when the existing walls are 6-foot in height and consist of masonry or mixed construction.
14. The applicant shall finish all new property line walls equally on both sides wherever possible, subject to the Planning Department's approval. Projects utilizing existing property line walls shall restore the walls to an "as new condition," on both sides, subject to Planning Department approval.
15. The site shall be fully fenced prior to the start of construction.
16. All on-site litter and debris shall be collected daily.
17. Construction work shall occur only between the hours of 7 a.m. and 6 p.m. on Monday through Friday, between 9 a.m. and 5 p.m. on Saturday, with no work occurring on Sunday and holidays.
18. Material storage on public streets shall not exceed 48-hours per load.

19. The project developer and/or general contractor shall be responsible for counseling and supervising all subcontractors and workers to ensure that neighbors are not subjected to excessive noise, disorderly behavior, or abusive language.
20. Barriers shall be erected to protect the public where streets and/or sidewalks are damaged or removed.
21. Streets and sidewalks adjacent to job sites shall be clean and free of debris.
22. Color and material samples shall be submitted for review and approval of the Planning Department prior to the issuance of Building Permits.
23. The Vesting Parcel Map shall be recorded within 36-months of the effective date of this resolution, unless an extension is granted pursuant to law. If said map is not recorded within said 36-month period, or any extension thereof, the map shall be null, void, and of no force and effect.
24. The developer shall plant a minimum 36-inch box tree within the front-yard of the project, subject to Planning Department approval (not a palm tree).

ADDITIONAL CONDITIONS:

25. That any Best Management Practices (BMP's) included in the approved SSUSMP shall be incorporated in the construction plans prior to issuance of the Building Permits and all physical improvements shall be installed prior to final inspection. Thereafter, the current and future property owner shall be responsible for all maintenance, management, and operation of said systems in compliance with all applicable standards and requirements.
26. That with respect to the proposed design, staff recommends that the applicant work with staff on minor revisions to the front elevation in order to give it more definition or character as a front-facing elevation. It currently looks more like a side facing elevation.
27. That the applicant work with staff on the specific colors of the exterior finish materials. It is staff's opinion that the use of a lighter tone or shade of finish on the wood shingles would help to reduce the perception of the mass of the structure.

The project is located in the Appealable Area as defined in the Local Coastal Program of the City of Redondo Beach. An appeal may be made by the applicant or anyone who has exhausted all local appeals under the City's appeal procedure by pursuing his or her appeal before all appropriate local appellate bodies prior to filing an appeal to the Coastal Commission; or by any two members of the Coastal Commission. All appeals must be received by the Coastal Commission's South Coast District Office within ten (10) working days of the date on which the Coastal Commission received this Notice of Final Decision.

If you have any question concerning this matter, please contact Anita Kroeger, Senior Planner at (310) 372-1171 x2248.


Randy Belfer
Planning Director

COASTAL COMMISSION

A-5 RDB 5-380

EXHIBIT # 4

PAGE 3 OF 3

CALIFORNIA COASTAL COMMISSION

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



September 28, 2005

COASTAL COMMISSION

A5-RDB-05-380

EXHIBIT # 5PAGE 1 OF 2

Todd A. Valdes
1503 South Catalina Avenue
Redondo Beach, CA 90277

Subject: Appeal A5-RDB-05-380 104 Avenue G, Redondo Beach

Dear Mr. Valdes,

On September 23, 2005 this office received your appeal of the City of Redondo Beach's approval of local coastal development permit number CDP 2005-07-CDP-07 for construction of a two unit residential condominium at 104 Avenue G, Redondo Beach.

The appeal form submitted on September 23, 2005, provided, in summary, the following reasons for filing the appeal:

- The proposed development doubles the size and bulk of the existing single-family home, thereby causing deterioration of existing scenic and visual qualities (Pub. Res. Code §30251).
- The Redondo Beach Planning Commission and City Council on appeal both failed to consider the adverse impact of the proposed development on pollution standards and energy consumption. (Pub. Res. Code §30253 (3 and (4)).
- The size and siting of the proposed development will shade an existing 1.7 KV photovoltaic (PV) solar system currently installed on a neighboring property at 1503 S. Catalina Avenue. The solar system was designed, permitted by the City of Redondo Beach, and constructed, before notice was given of the adjacent proposed development. ... While the City Council conceded that the proposed development would have an adverse impact on the existing PV system, the Council denied the appeal.
- AB 2473 expressly states that it is the intent of the legislature that local governments should not unreasonably restrict the ability of homeowners to install solar energy systems. (Gov. Code § 6580.5). ... [The] CDP [granted to] an adjoining development creates an obstacle restricting the use and increasing the cost of operation of the current system.

Coastal Staff has reviewed your appeal, the proposed project, and the City's action; and the Executive Director has determined, pursuant to Section 30620(d) of the Coastal Act that the appeal is patently frivolous.

Section 30620(d) of the Coastal Act states:

(d) With respect to any appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from any person other than members of the commission or any public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

The Executive Director has determined that the appeal is patently frivolous because the appeal raises no issues that could justify a decision by the Commission to hear the appeal. Coastal Act

(Public Resources Code Section) 30625(b)(2) states that the Commission shall hear an appeal unless:

(2) With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

Section 30603 limits the grounds for appeal of coastal development permits issued after certification of a local coastal program. The City of Redondo Beach has a certified local coastal program. Section 30603(b) states:

(b) 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.

You do not allege that the City did not adhere to the standards of its certified local coastal program in issuing the permit. The City also found that the proposed development "is in conformity with the certified local coastal program because it is consistent with the low density multiple family residential R-3A zone and associated development standards." (Notice of Decision September 7, 2005)

You do not raise and cannot demonstrate that the proposed project is inconsistent with either the certified local coastal program, or the public access policies of the Coastal Act, as required by Section 30603(b)(1). Therefore, the appeal will not be filed unless you (the appellant) submit a filing fee in the amount of three hundred dollars (\$300) to the Commission's South Coast District Office in Long Beach within five working days of your receipt of this letter communicating the Executive Director's determination as required by Section 30620(d) of the Coastal Act. If the filing fee is paid within five working days of your receipt of this letter, the appeal will be accepted and filed and the Commission will hold a substantial issue hearing on the appeal. If the Commission finds that the appeal raises a substantial issue, the filing fee will be refunded. If you have any questions concerning this matter, please call me at (562) 590-5071.

Sincerely


Pam Emerson
Los Angeles Area Supervisor

Cc. Redondo Beach Planning Dept.
Carey Martz, applicant
File

COASTAL COMMISSION

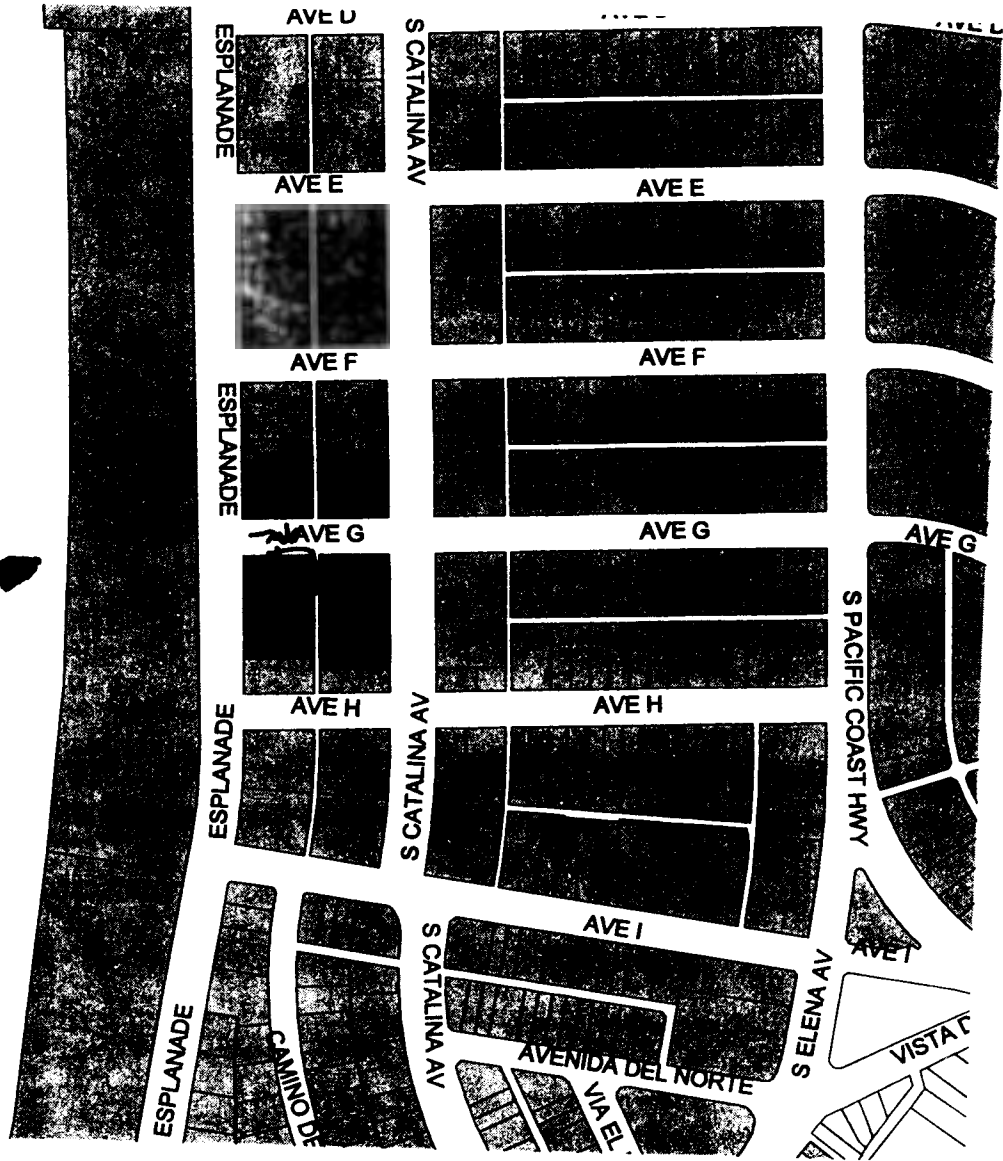
A 5 RDB 5-380

EXHIBIT # 5

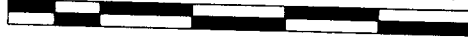
PAGE 2 OF 2

104 Avenue G (City Council Mtg. 9/6/05)

Site



200 0 200 400 600 800 Feet



Site Location

COASTAL COMMISSION

ASRD 5-380

EXHIBIT # 6

PAGE 1 OF 1

REDONDO BEACH COASTAL LAND USE PLAN

EXHIBIT H

AREA 1 *Certified*

area

HERONDO ST

N HARBOR DR

N CATALINA AV

N PACIFIC COAST HWY



* For blank portions of map refer to Exhibit H-1

Area 1, certified area

COASTAL COMMISSION

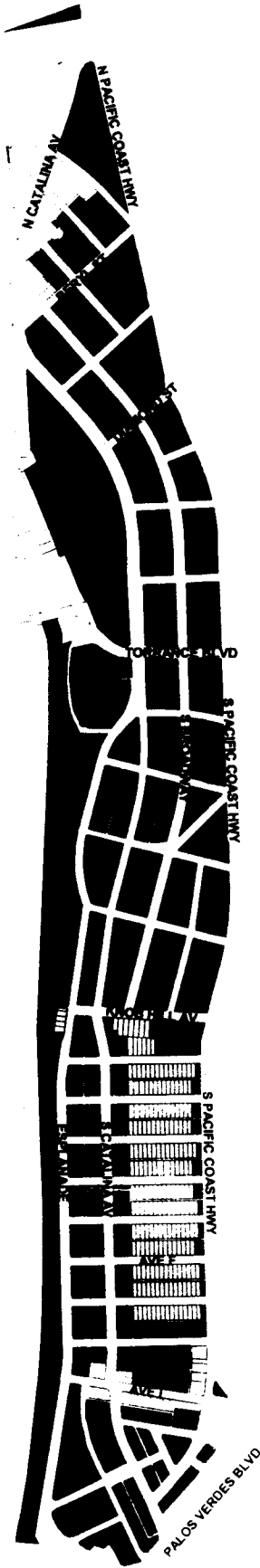
A5803-05-280

EXHIBIT # 7

PAGE 1 OF 1

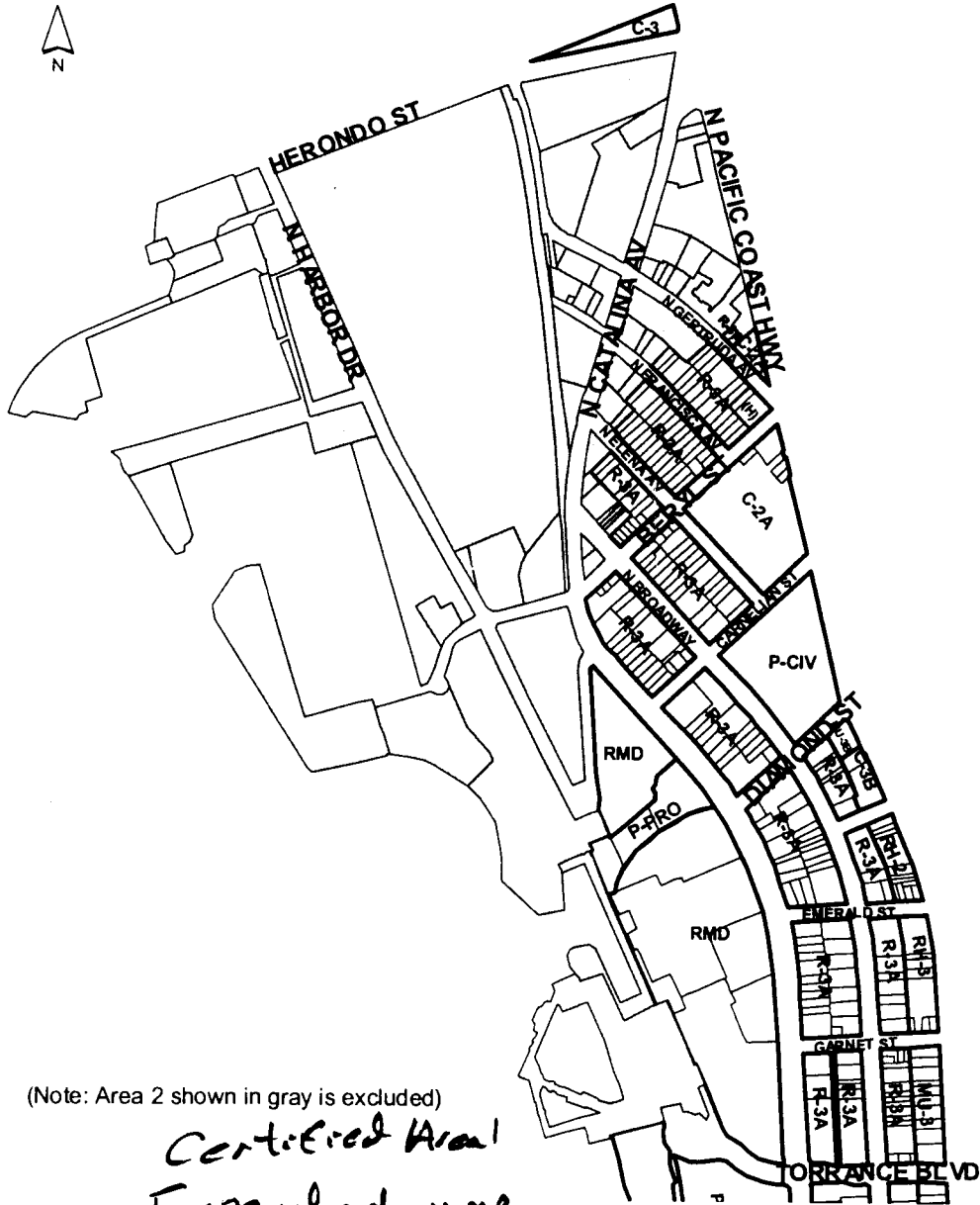
LEGEND

- R-1 SINGLE FAMILY RES (8.8 DU/ACRE)
- R-2 LOW DENSITY MULTI-FAMILY RES (14.6 DU/ACRE)
- R-3 LOW DENSITY MULTI-FAMILY RES (17.5 DU/ACRE)
- RMD MEDIUM DENSITY MULTI-FAMILY RES (23.3 DU/ACRE)
- RH HIGH DENSITY MULTI-FAMILY RES (28 DU/ACRE)
- C-2 COMMERCIAL
- C-3 COMMERCIAL
- C-4 COMMERCIAL
- MU MIXED USE
- P PUBLIC OR INSTITUTIONAL



PALOS VERDES BLVD

Map 1 of 3
Zoning Map for Area 1 of the Coastal Zone



(Note: Area 2 shown in gray is excluded)

*Certified Area
Expanded map*

COASTAL COMMISSION

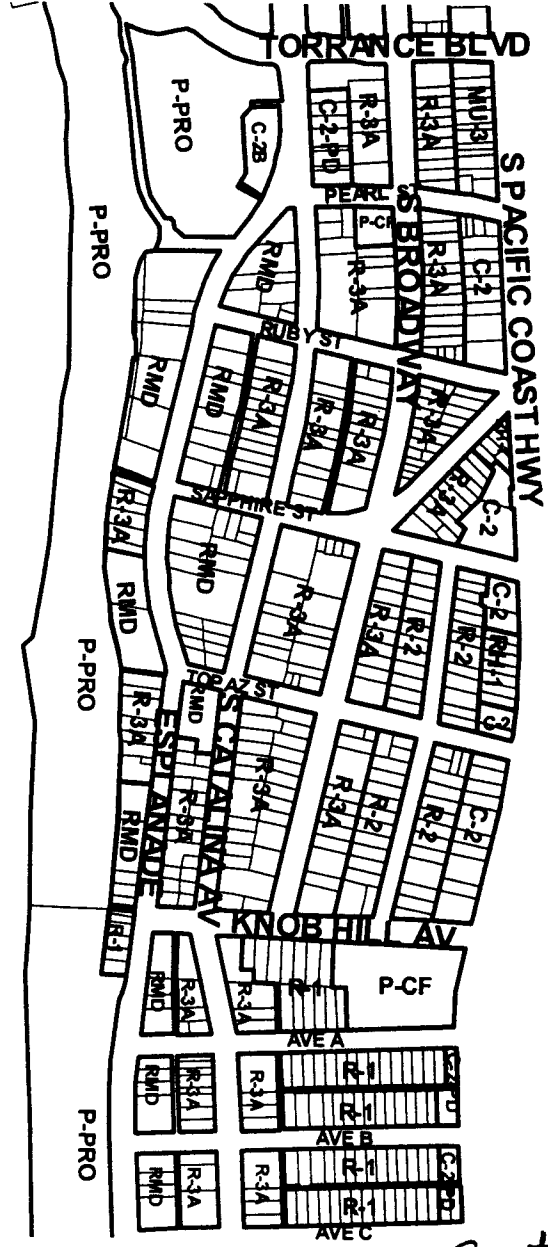
A5 RDB 5-380

EXHIBIT # 8

PAGE 1 OF 3

(provided for context)

Map 2 of 3
Zoning Map for Area 1 of the Coastal Zone



*Certified Area
Expanded Map*
COASTAL COMMISSION
8
EXHIBIT # A5-ROB5-580
PAGE 2 OF 3

(provided for context)

Map 3 of 3
Zoning Map for Area 1 of the Coastal Zone



Site
Location →

* Indicates (RIV) Overlay Zone

(provided for context)

*Certified Area 1
Expanded Map*

COASTAL COMMISSION
A5 RDB 5-380

EXHIBIT # 8
PAGE 2 OF 3

PUBLIC HEARINGS

- 32. PUBLIC HEARING TO CONSIDER APPEAL OF PLANNING COMMISSION DECISION APPROVING AN EXEMPTION DECLARATION AND GRANTING THE REQUESTS FOR A CONDITIONAL USE PERMIT, PLANNING COMMISSION DESIGN REVIEW, VESTING PARCEL MAP NO. 62690, AND COASTAL DEVELOPMENT PERMIT TO PERMIT CONSTRUCTION OF A TWO-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT ON PROPERTY LOCATED WITHIN A LOW DENSITY MULTIPLE FAMILY RESIDENTIAL (R3-A) ZONE AT 104 AVENUE G.**

Motion by Councilmember Szerlip, seconded by Councilmember Cagle, to open the Public Hearing at 7:19 p.m. and to receive and file all documents. Motion carried unanimously.

Senior Planner Kroeger reviewed the project history and analysis of the appeal advising the appellant states that staff failed to present to the Planning Commission a project that complies with California law (AB 2473) regarding preexisting solar systems. According to the City Attorney's office, approval of the project at 104 Avenue G does not violate any State or City laws or ordinances with respect to solar energy systems. AB 2473 does not include any limitation on development of a lot adjacent to a property with a solar energy system. The appellant also states that staff did not consider the size and bulk of the eastern side of the proposed project in view of existing structures. However, a review of the east-facing elevation and roof plan reveals that the design of the east-facing elevation meets the residential guidelines. The appellant also states that staff failed to consider easements for light, air and view, but the City does not have any specific light, air or view protection ordinances. It should be noted also that there will be a separation of approximately 20 feet between the structures.

Denise Delurgio, S. Catalina, expressed concern with parking issues and the loss of single family dwellings in the neighborhood.

Todd Valdez, S. Catalina, expressed concern with the City establishing a standard that will eliminate the ability to place solar systems on roofs and the project impacting his solar system. He corrected that the project is a two-unit condominium and expressed concern with the City Attorney's narrow interpretation of the law. He recommended that the appeal be granted, to send the request back to staff and to open the dialogue.

Elizabeth Srour, representing the applicant, believed that the intention of state law is not to limit the rights of adjacent property owners, and that the same opportunities are present for the property owner and appellant.

Motion by Councilmember Diels, seconded by Councilmember Aspel, to extend Ms. Srour's time. Motion carried unanimously.

Ms. Srour reviewed the property's attributes noting the rear yard will maintain a 15-foot depth and that the upper-most level adheres to a greater setback. Massing is in the middle of the lot and the highest point of the roof is 30 feet away from the property line. There would be another 15 foot distance between the building face of 1503 Catalina and 104 Avenue G, the view corridor would be greatly enhanced, and the project is in full compliance with all development standards.

*Council Minutes
on appeal*

COASTAL COMMISSION
A5RDB -0538U
EXHIBIT # 9
PAGE 1 OF 3

Gary Lane, project architect, reviewed the project noting that it runs north and south and the appellant's property runs east and west with the solar panels in the back of his lot. The majority of the appellant's light is received on the south side and the only shadowing from the project may occur in the late afternoon. The subject project is set way back and the third story will only be in the center part of the building.

In response to Councilmember Diels, Mr. Lane advised the project height will be approximately 8 feet higher than the building in the back.

Motion by Councilmember Aspel, seconded by Councilmember Szerlip to close the Public Hearing at 7:41 p.m. Motion carried unanimously.

Councilmember Aspel noted that the zoning is R-3A and the property rights cannot be taken away from developments.

In response to Councilmember Diels, Mr. Valdez believed that the project will be developed to 30 feet high and suggested that a more sophisticated rendering be presented. Also, the south side is developed as far as it will go and will not get any higher.

Councilmember Diels stated that some sun will still be shining on the solar system at 4:30 p.m., even if the project were twice the current height, and that at the time the structure may block the sun, it is frequently foggy. He believed that the angles could be redirected to make up for the loss in the afternoon.

In response to Councilmember Szerlip, Senior Planner Kroeger stated that the lot size of 104 Avenue G is 5,000 square feet and the zoning is now R-3A. She indicated that the five to ten units on lots in the area were developed when higher density allowed and the 104 Avenue G property has a historical D rating.

In response to Councilmember Szerlip, City Attorney Webb stated his opinion is neither narrow nor expansive just a straightforward reading of the Code. He said the law covers three specific sections of California law that deal with the installation of solar energy panels, not related property concerns. The City complied with the law by granting the appellant the ability to install the solar system in February.

In response to Councilmember Szerlip, Planning Director Berler stated the project meets all current zoning standards along with the design guidelines.

Councilmember Szerlip stated he could not uphold the appeal based on the information presented and that the City Council will act according to the current Municipal Code and state law to protect the rights of all property owners in the City.

In response to Councilmember Parsons, Planning Director Berler stated this project is in the Coastal Zone where the administrative approval is not in effect yet.

In response to Councilmember Parsons, Senior Planner Kroeger did not believe the parties have spoken on this matter.

*Council minutes
on appeal*

COASTAL COMMISSION
AS RDBOS-350
EXHIBIT # 9
PAGE 2 OF 3

Councilmember Parsons stated disagreements occur and it is incumbent to reach out to the other party before coming to the City Council. He felt the appellant should have brought a sun and shadow study along with proof that a solution is needed. He pointed out that the area has been down zoned considerably and the project being built will only be two units compared to what could have been built in the past.

Mayor Gin thanked Mr. Valdez for coming to the meeting and commended him for his solar energy system. He felt design guidelines have been met which will help soften the impact and there is no legal standing to uphold the appeal. He encouraged residents and neighbors to meet and communicate before coming before the City Council.

Councilmember Aspel pointed out that the area has been down zoned over the years and he cannot make any findings to grant the appeal.

Motion by Councilmember Aspel, seconded by Councilmember Szerlip to deny the appeal and approve an Exemption Declaration, Conditional Use Permit, Vesting Parcel Map No. 62690, Planning Commission Design Review and Coastal Development Permit for construction of a two unit condominium project on property located at 104 Avenue G in the Coastal Zone; and direct staff to prepare a resolution memorializing this decision. Motion carried unanimously.

33. PUBLIC HEARING TO CONSIDER LEVEL II ENTERTAINMENT PERMIT FOR NAJA'S PLACE AT 154 INTERNATIONAL BOARDWALK.

Motion by Councilmember Aspel, seconded by Councilmember Diels, to open the Public Hearing at 8:10 p.m. and to receive and file all documents. Motion carried unanimously.

Mike Magdaleno, Municipal Enforcement Manager, reported on the background for the Entertainment Permit at Naja's Place. He reviewed the requested hours and noted the applicant is requesting Friday hours from 2 p.m. to 1 a.m. and a Wednesday comedy night from 6 p.m. to 12 a.m. He reviewed the facility modifications including a new roll up door, façade and ventilation system. Staff recommends denying the extension of hours request and revising Condition 7 to require that windows and doors remain closed after 7 p.m.

Brian McGovney, District 4, supported Naja's Place, reviewed its attributes and felt it is a unique place in the South Bay. He supported that the doors remain open.

Nancy Maybar loved the open air atmosphere and requested that the doors and windows remain open.

Kevin Hill, District 2, requested that the windows and doors remain open for residents and visitors to enjoy.

Motion by Councilmember Cagle, seconded by Councilmember Szerlip, to extend Mr. Hill's time. Motion carried unanimously.

Mr. Hill felt the open air ambience is an attraction. He pointed out that complaints in the past have come mainly from one person with none since June.

Jim Trivelian, partner at Naja's, advised he has ~~exhibition~~ noting positive feedback and no noise issues. They have made repairs, improved the noise level, and all errors have been corrected. The person complainant has moved, and there have been no complaints since June.

COASTAL COMMISSION

EXHIBIT #
PAGE 65

AS RDB AS 360
Exhibit 9 p 3 of 2

Council
M. notes
p 3