CALIFORNIA COASTAL COMMISSION

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Filed:
49th Day:
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Staff:
Staff Report:
Hearing Date:
Commission Action:

June 11, 2008 July 30, 2008 December 8, 2008 Fernie Sy-LB September 25, 2008

October 15-17, 2008



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-08-154

APPLICANT: Seashore Village, LLC

AGENTS: Todd Schooler & Associates; Attn Todd Schooler

PROJECT LOCATION: 5515 River Avenue, City of Newport Beach (County of Orange)

PROJECT DESCRIPTION: Demolition of an existing 54-unit apartment complex and construction of a 24-unit condominium development. Two (2) parking spaces for each unit will be provided, as well as fifteen (15) guest parking spaces for a total of sixty-three (63) parking spaces. Hardscape and landscape work is also proposed. Grading will consist of 1,615 cubic yards of cut, which will balance on site.

LOCAL APPROVALS RECEIVED: Mitigated Negative Declaration SCH No. 2008021075; Tentative Tract Map No. 2007-001; Modification Permit No. 2007-044; Use Permit No. 2007-011; Coastal Residential Development Permit (CRDP) No. 2007-001; and Approval-In-Concept dated June 11, 2008.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves the demolition of an existing apartment building and construction of a new condominium development. The major issues before the Commission relate to parking and water quality. Staff is recommending <u>APPROVAL</u> of the proposed project subject to **FIVE (5) SPECIAL CONDITIONS** requiring: 1) construction-phase best management practices; 2) prohibition against public entry controls and restrictions on use by the general public associated with any streets or parking areas; 3) conformance with the Water Quality Management Plan (WQMP); 4) the applicant to submit a Revised Landscape Plan; and 5) additional approvals for any future development.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

SUBSTANTIVE FILE DOCUMENTS: *Water Quality Management Plan (WQMP)* prepared by Todd Schooler & Associates, Inc. dated May 3, 2007; and *Geotechnical Investigation (Project No. TS474.1)* prepared by EGA Consultants, LLC dated June 13, 2007.

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LIST OF EXHIBITS

- 1. Location Map
- 2. Assessors Parcel Map
- 3. Site Plan
- 4. Floor Plans and Elevations

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a <u>YES</u> vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment.</u> The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration.</u> If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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- 3. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land.</u> These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. CONSTRUCTION BEST MANAGEMENT PRACTICES

- **A.** The permittee shall comply with the following construction-related requirements:
 - (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
 - (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible:

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- (2) The applicant shall develop and implement spill prevention and control measures:
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

2. **GATING/ENTRY CONTROLS**

As proposed, all streets, roads and parking areas shall be open for use by the general public 24 hours per day for parking, vehicular, pedestrian, and bicycle access, with the exception of standard limited (i.e. less than one day) parking restrictions for street sweeping/maintenance purposes. Long term or permanent physical obstruction of streets, roads and public parking areas shall be prohibited. All public entry controls (e.g. gates, gate/guard houses, guards, signage, structures and/or landscaping mimicking any type of entry control, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited.

3. CONFORMANCE WITH THE WATER QUALITY MANAGEMENT PLAN (WQMP)

The applicant shall conform to the Water Quality Management Plan (WQMP) dated May 3, 2007 showing roof drainage and runoff from all impervious areas directed to infiltration/gravel bed drainage systems or pervious areas. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. REVISED LANDSCAPE PLAN

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) full sized sets of Revised Landscape Plans that demonstrate the following:
 - (1) The plan shall demonstrate that:
 - (a) All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by

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California Department of Water Resources (See: http://www.owue.water.ca.gov/docs/wucols00.pdf). Any existing landscaping that doesn't meet the above requirements shall be removed:

- (b) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage; and
- (c) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
- (2) The plan shall include, at a minimum, the following components:
 - (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the temporary irrigation system, topography of the developed site, and all other landscape features, and
 - (b) a schedule for installation of plants.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-08-154. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-08-154. Accordingly, any future improvements to the development authorized by this permit, including repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-08-154 from the Commission or shall require a new coastal development permit from the Commission or its successor in interest.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 5515 Riverside Avenue in the City of Newport Beach, Orange County (Exhibits #1-2). The lot size is 65,108 square feet and the City of Newport Beach Land Use Plan (LUP) designates use of the site for High Density Residential and the proposed project adheres to this designation. The project site is generally bordered by River Avenue to the north; Seashore Drive to the south; residential units, including vacation rentals, to the east; and a City-owned park to the west. Public access to the beach is one block to the southwest, less than 200-feet from the project site.

The project involves demolition of an existing three-story, 54,739 square foot, 54-unit apartment complex and construction of a 24-unit condominium development (twelve (12) detached single-family buildings with 2-car attached garages and six (6) two-family detached duplexes with attached garages and carports totaling 2-car spaces per unit attached) (Exhibit #3). Thus, two (2) parking spaces for each unit will be provided (48 parking spaces), as well as fifteen (15) guest parking spaces for a total of sixty-three (63) parking spaces. The proposed project would be completed in three (3) phases with two (2) building styles: Plantation and Craftsman. Single-family units with Plantation and Craftsman architectural styles would front Seashore Drive alternately, and duplex units with Plantation and Craftsman architectural styles would front River Avenue alternately (Exhibit #4). Each unit will consist of three-stories.

The development proposes three (3) plan types--Plan A during Phase 1; Plan B during Phase II and Plan C during Phase III—and four (4) floor plans ranging in size from 1,770 square feet to 3,248 square feet, including attached garages, patios, and decks. For Plan A, the maximum ridgeline height would be 31-feet above finished grade. For Plan B, the maximum ridgeline height would be 31-feet and 4-inches above finished grade. For Plan C, the maximum ridgeline height would be 31-feet and 4-inches above finished grade.

The proposed project will blend in with the community character of the area that consists of detached single-unit and two-unit residential structures. Hardscape and landscape work is also proposed. Grading will consist of 1,615 cubic yards of cut, which will balance on site. Access to the site would be provided via two (2) driveways on River Avenue and one (1) driveway from Neptune Avenue. The western driveway on River Avenue would exclusively serve one (1) single unit structure. All other vehicular access would be provided through a driveway connecting Neptune Avenue to River Avenue. As proposed, all public entry controls and restrictions on use by the general public associated with any streets or parking areas shall be prohibited with the proposed project. **SPECIAL CONDITION NO. 2** has been imposed to verify this.

The applicant has a Water Quality Management Plan (WQMP) for the proposed project and is proposing water quality improvements as part of the proposed project, consisting of infiltration/gravel bed drainage systems and surface drainage directed to permeable areas.

The applicant is also requesting the approval of a tentative tract map, for condominium purposes, to create 24 airspace condominium units.

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The applicant has stated that landscaping is proposed and plans have been submitted. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (http://www.cal-ipc.org/) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm.

Commission staff has reviewed the submitted Landscaping Plan and determined that non-drought tolerant plants have also been found: *Hymenosporum Flavum, Losphostemon Confertus, Metrosideros Excelsus, Ligustrum Texanum, Rhaphiolepis "Ballerina", Rhaphiolepis "Springtime", Scaevola "Mauve Clusters", Gazania 'Sunrise Yellow", Rhaphiolepis "Majestic Beauty", Agapanthus "Peter Pan", Nephrolepis Cordifolia, Photinia Fraseri, Pittosporum Tobira, Strelitzia Reginae, and Thymus Vulgaris. In addition, the drought tolerancy of the proposed grass could not be determined: "Marathon" Fescue Grass. Therefore, the Commission imposes SPECIAL CONDITION NO. 4, which requires the applicant to submit a Revised Landscaping Plan, which consists of native or non-native drought tolerant plants, which are non-invasive.*

B. LOCAL APPROVALS

1. Tentative Tract Map No. 2007-001

Approval from the Planning Commission to create 24 airspace condominium units.

2. Modification Permit No. 2007-044

Approval from the Planning Commission to reduce the minimum building separation distance required by distance along Seashore drive required by the MFR zoning designation from 20 feet to 10 feet and to allow a 3-foot sideyard setback where the MFR zone requires approximately 24-feet sideyard setback based on lot width.

3. Use Permit No. 2007-011

Approval from the Planning Commission to exceed the midpoint height requirement of 28-feet for the duplex structures by 1-foot 6-inches, whereas the maximum permitted ridge height of 33-feet would not be exceeded.

4. Coastal Residential Development Permit (CRDP) No. 2007-001

Approval from the Planning Commission that ensures compliance with California Government Code Section 65590 et. Seq. and Chapter 20.86 of the City of Newport Beach Municipal Code for projects located in the Coastal Zone.

C. DEVELOPMENT

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The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, the development, as proposed and conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. LOCAL COASTAL PROGRAM

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

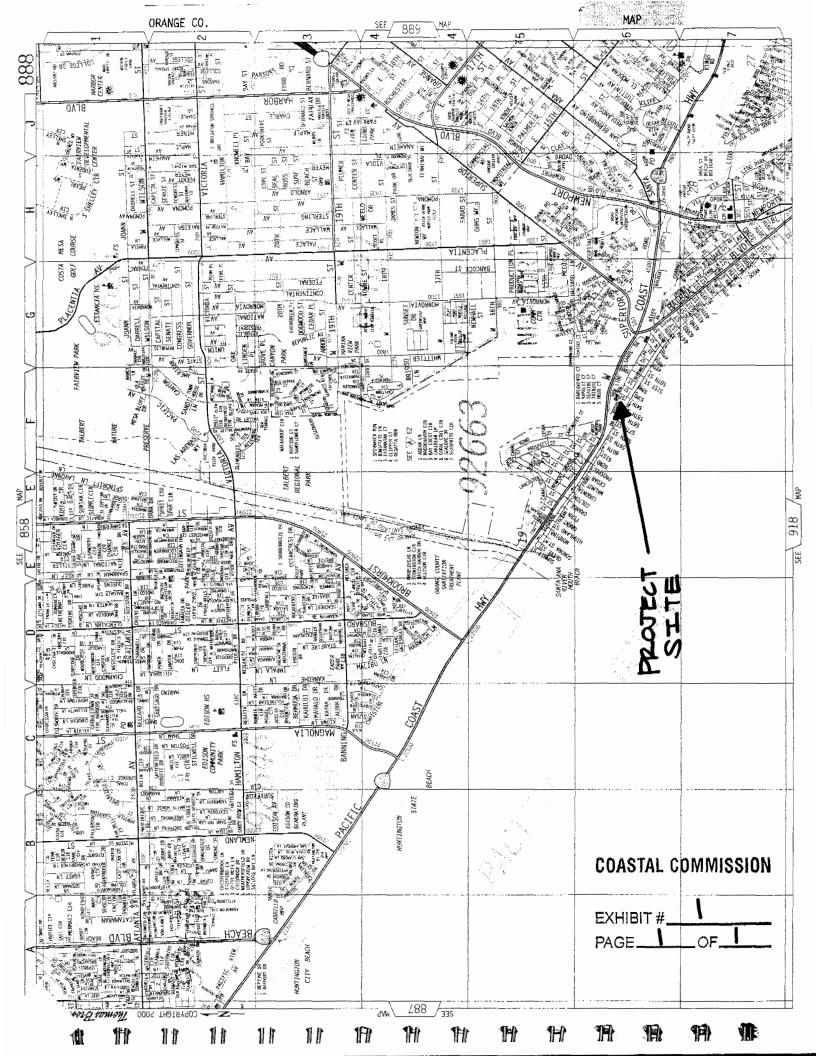
The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. Since the City only has an LUP, the policies of the LUP are used only as guidance.

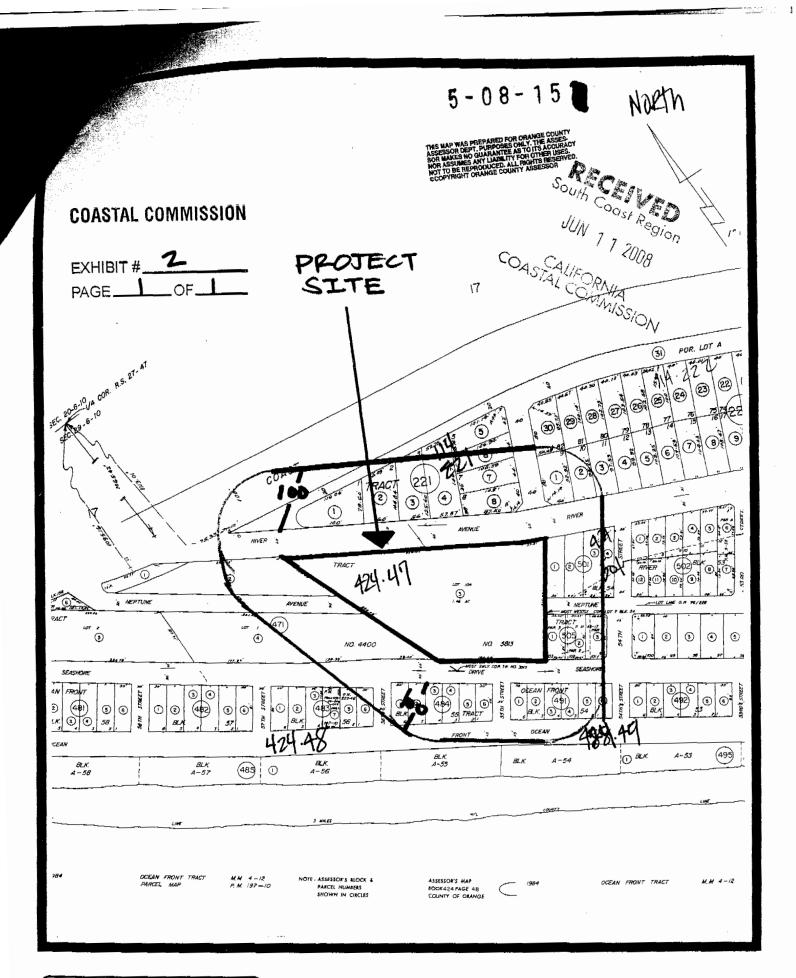
The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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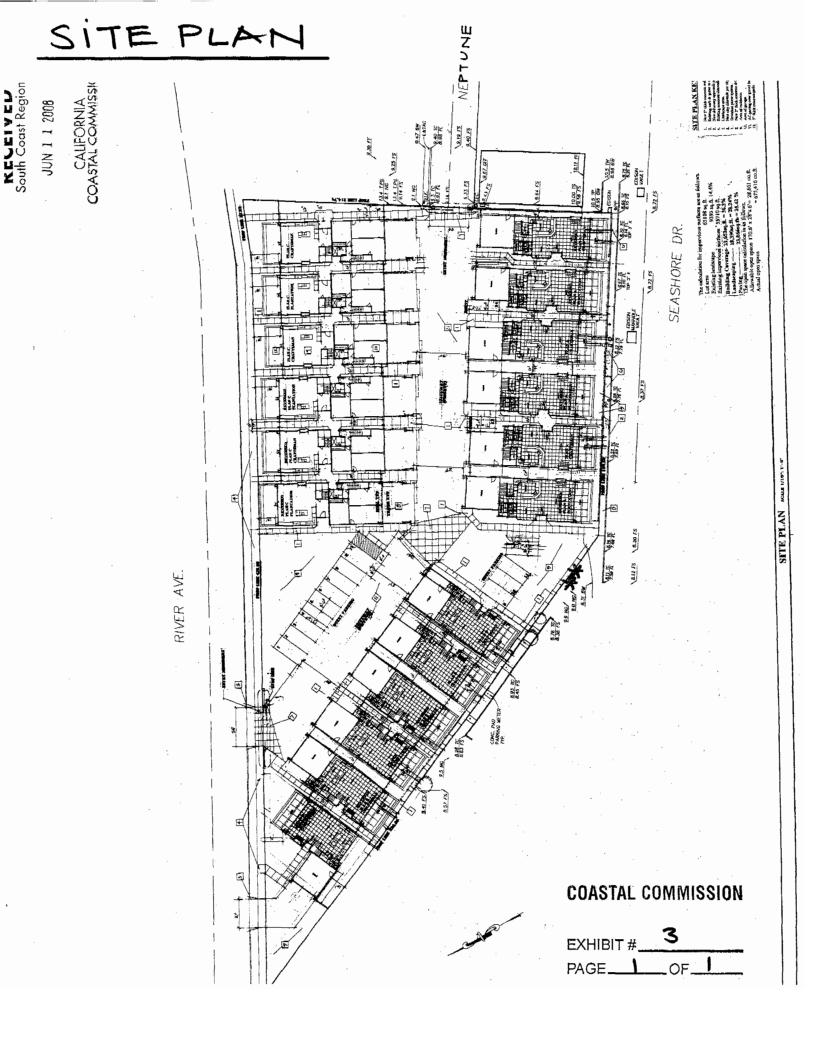
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



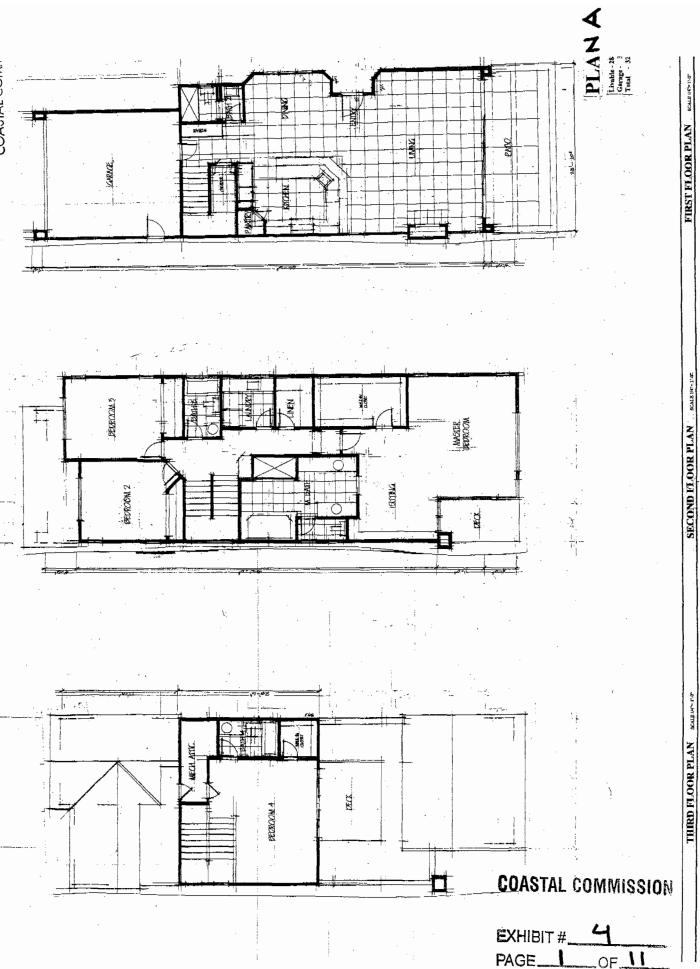


Ownership Map

SUSAN W. CASE, INC. 917 GLENNEYRE ST #7 LAGUNA BEACH CA 92651 949-494-6105 SUSANCASE@PRODIGY.NET





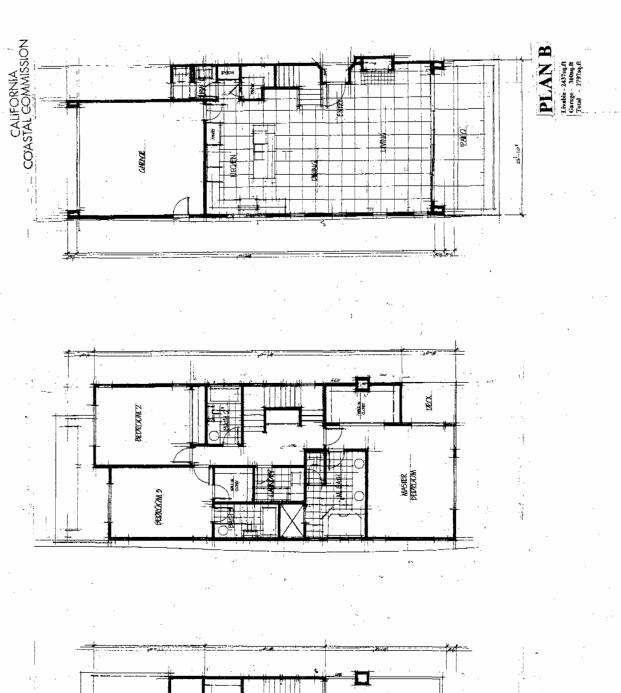


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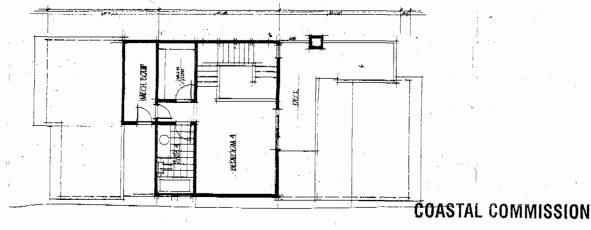
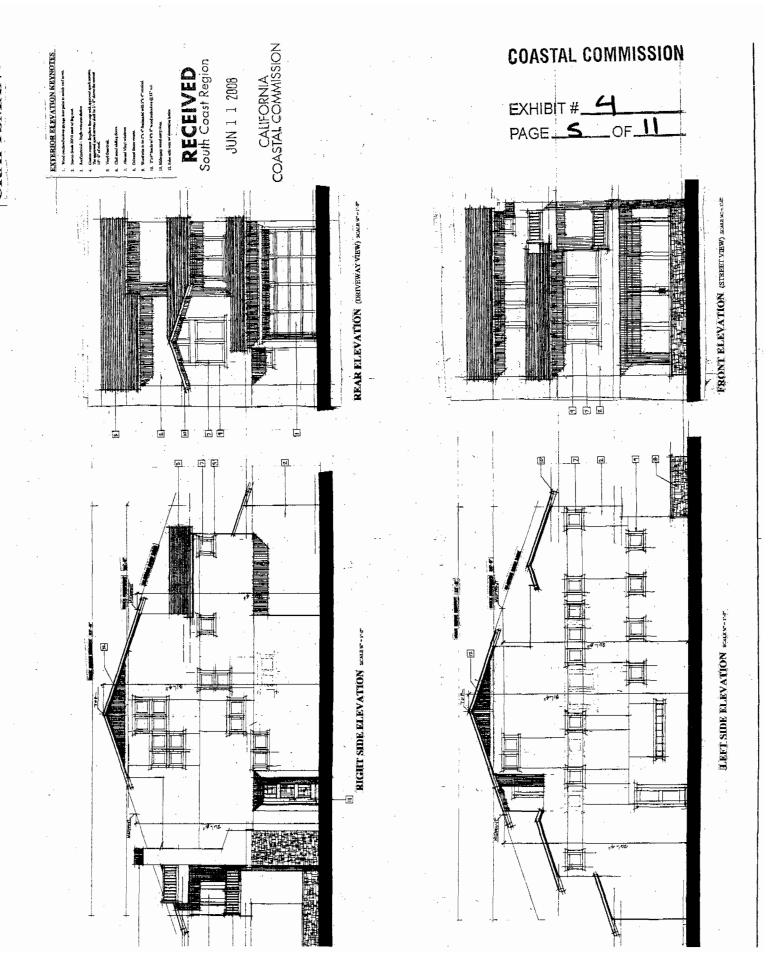
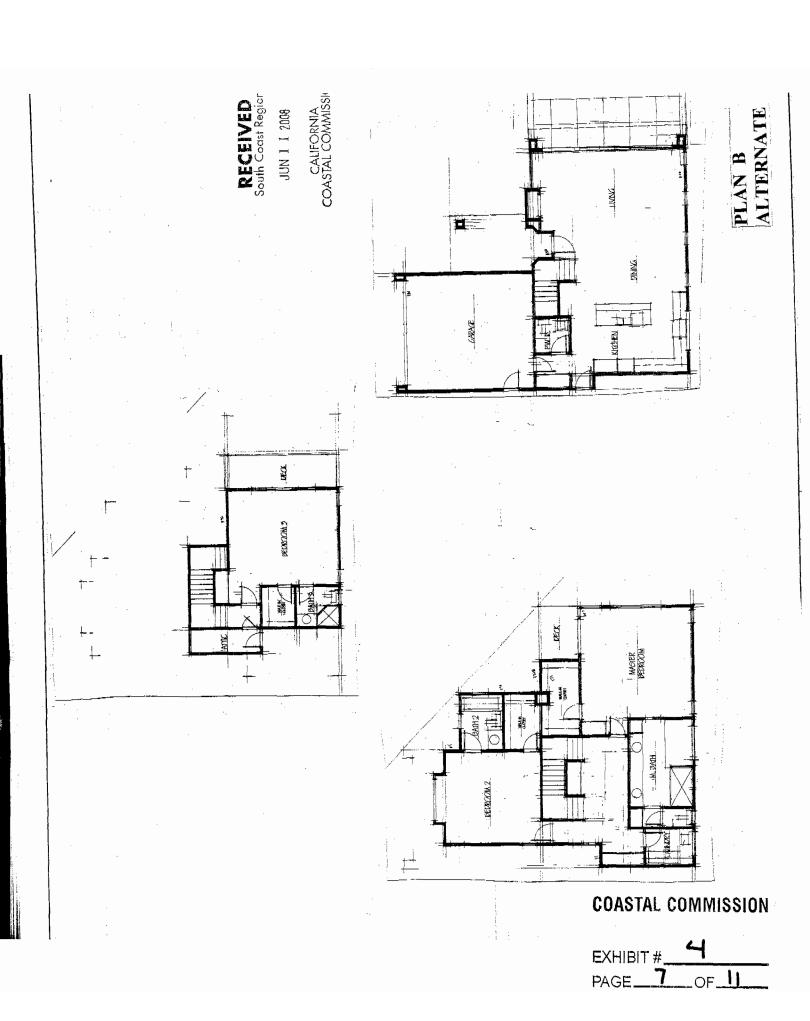
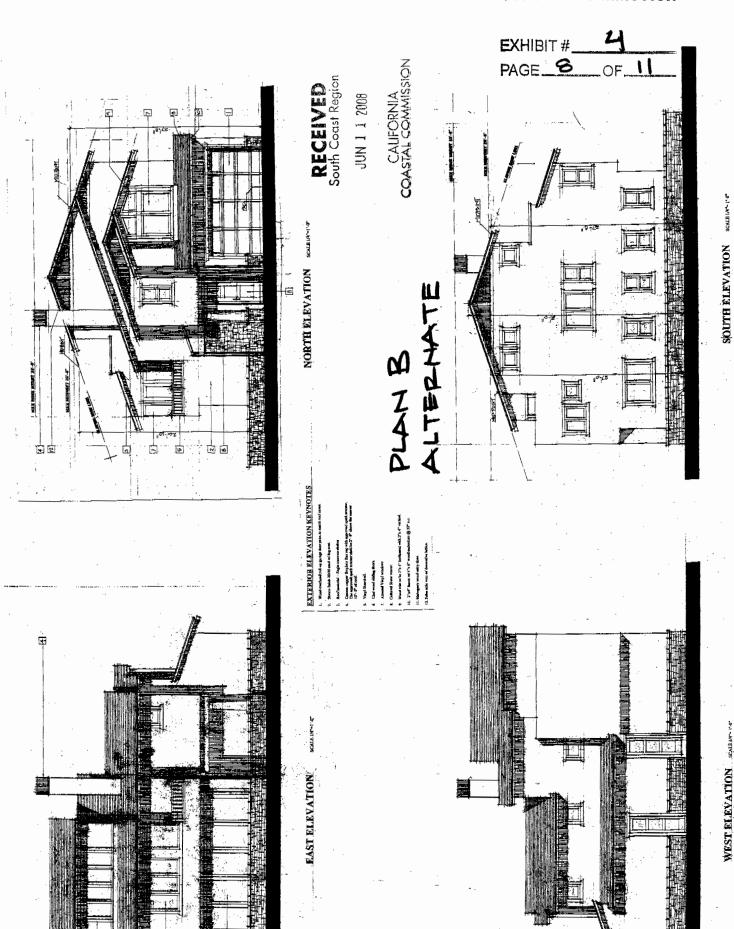


EXHIBIT # 4
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COASTAL COMMISSION



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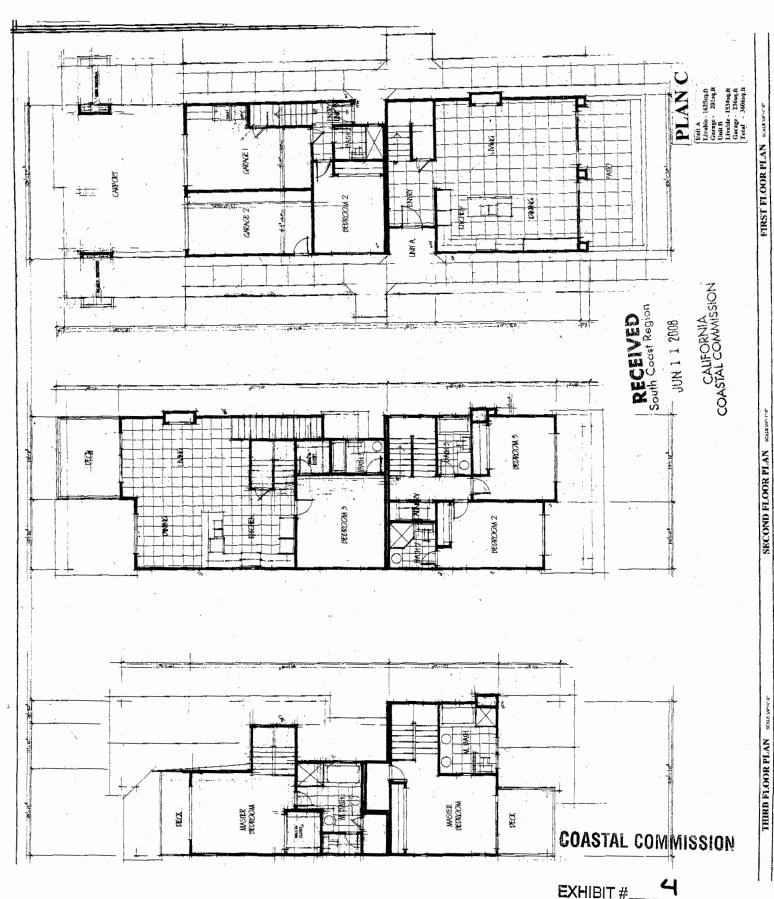


EXHIBIT # 4
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