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South Coast Region

FEB 29 2008

W12a

CALIFORNIA
COASTAL COMMISSION

March 5, 2008
Agenda Item No: W12a
Application No: 5-07-311
Teo Albers
Opposition Statement

California Coastal Commission
c/o South Coast District
P.O. Box 1450
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416
(562) 590-5071/ph.
(562) 590-5084/fax

Dear Commissioners:

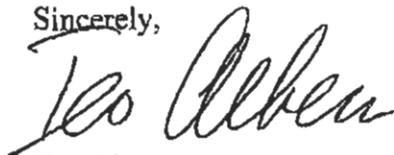
My name is Teo Albers and I own the property just west of the proposed development. I have gone to a number of planning commission meetings along with many concerned neighbors regarding this development. While some of the concerns we had were overall design, the main issues were that we, as a neighborhood, had concerns which included "cluttered" rooftops, height limitations, obstructions to views, and the overall appearance that has made Seal Beach what it is: a small beach town, with buildings and a boardwalk whose appearance gives it that feel.

I too, (as on the proposed project), have a third floor used as a roofdeck. It has a 3 ft. solid wall from the floor up and an additional 2 ft. glass windbreak, all within the 25 ft. height limit, which allows us privacy, yet gives us a view of the ocean, as well as a windbreak. More importantly, we, our furniture, barbeque, etc. are not visible, distracting, or unsightly from the view from the beach, especially when the berm is in place. My biggest concern relates to privacy matters and obstruction of view, and as an owner of a home facing the ocean, I do not feel that someone wanting to build next door should invade upon my privacy. From what I understand, their third level floor (roofdeck) is raised to approximately 1-1/2 feet below the maximum height limit, which allows them excessive overview into my property and surroundings and will most likely create unsightly exposure from the beach of furniture, umbrellas, etc., as well as diminishing yet even more view from the surrounding neighbors. It might even be a safety issue.

As well as the above, a huge chimney planned on the west side of their home near the boardwalk will not only be unsightly and unnecessary, but could possibly create a soot and smell problem for their neighbors. The fireplace on the roof is a danger for the neighbors as we get high winds throughout the year and should not be allowed. I believe too, that even though a chimney is something people are entitled to, theirs is excessive in size and height, and quite close to the boardwalk as well as my home. This also takes away from my view because my roofdeck floor is lowered so that my windbreak can be within the allowable height limits, unlike that of the proposed project. It seems, that considering the number of fireplaces they plan on having, that the one mentioned could be downsized or removed. After denying the applicants a doghouse entry because of the above concerns, the Planning Commission had also verbally requested they downsize these obstructions to appease the concerns of their neighbors, but instead they have made this chimney even bigger and this is what they are asking the Coastal Commission to approve.

I feel just as strongly that these same concerns, if not addressed, will take away from the Old Town neighborhood feel, not conform to the norm seen along the boardwalk, and stand out in a negative way as seen from the beach. Everything shown as proposed seems to be based on building to the max, not based on neighborhood concerns, or what the public will probably view as a building out of character with the boardwalk.

Sincerely,

A handwritten signature in black ink that reads "Tco Albers". The signature is written in a cursive, flowing style with a large initial "T".

Tco Albers

W12a

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OPPOSITION STATEMENTS

LETTERS

Steve and Bernadette Meltzer	1308 Ocean
John Inniss	1200 Ocean
JoAnn Bettenhausen	1311 Seal Way

LETTERS TO BE FAXED

Teo and Greta Albers	1307 Seal Way
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NEIGHBORHOOD PETITION

Chani Demello	1307 Seal Way
John Demello	1307 Seal Way
Margo Allsbrook	1301 Seal Way
Laura Koenes	1301 Seal Way
Jim Johnson	1301 Seal Way
Shani rae Erickson	1204 Ocean
Jerry Erickson	1204 Ocean
Richard Dudash	1320 Ocean
Arnold Ramm	1316 Ocean
Susan Davenport	1401 Seal Way
Jack Bettenhausen	1311 Seal Way
Bruce Sherman	1300 Ocean
Susan L. North	1214 Ocean
Steve Cushman	1209 Seal Way
James Shoemaker	1210 Ocean
Carol Shoemaker	1210 Ocean
Stephanie Mizutani	1306 Ocean

EXHIBITS

Proposed Roof Plan
1300 Block Seal Way (Photos)
Comparisons to Proposed Project (Photos)



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c/o South Coast District
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200 Oceangate, 10th Floor
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Dear Commissioners,

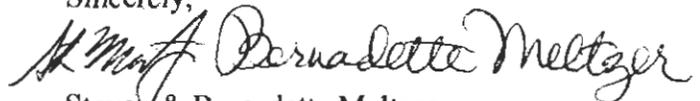
We wish to express our opposition to the planned residence at 1309 Seal Way. Our community consists of small 30-foot lots with modest homes in the 2000-3000 foot range. Almost all of the homes fronting the beach have small setbacks with decks or patios facing the ocean. Very few have accessible roof decks, which are generally modest in size without any fireplaces. Very few have more than one chimney. Most homes have setbacks on two sides of the homes. All of the homes are clearly visible from the beach and surrounding areas.

The proposed structure at 1309 Seal Way is incongruous and out of character with the surrounding homes. Its proposed dimensions are at least 10-20 % larger than its counterparts with no setbacks on the lot. There are three large unsightly chimneys despite previous requests by the Seal Beach city planning committee to mitigate the impact to surrounding residents. A large rooftop deck with a raised floor and a fireplace is not only disruptive architecturally but unsafe due to the high winds commonly found in the Seal Beach area. This constitutes inconsiderate planning on the part of the owners who were repeatedly asked to respect the privacy of their neighbors in the community. The owners have argued that other houses have examples of exceptions to building standards but these exceptions are rare and not seen in any combination.

The California Coast and its charming communities such as Seal Beach need to be preserved for its residents and neighbors. The property at 1309 Seal Way should be appropriate to the understated beauty of the surrounding homes. It should be reduced in overall size by at least 500 feet with setbacks consistent with surrounding homes. The rooftop structures including flooring, fireplace, and chimneys should be modified for safety and aesthetic reasons. Finally, the owners should respect the spirit of the Seal Beach community that has denied previous requests in two city planning meetings for variances that would adversely affect their neighbors.

I thank you for your attention to this important matter.

Sincerely,



Steven & Bernadette Meltzer
1308 Ocean Avenue

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CALIFORNIA
COASTAL COMMISSION

Application No: 5-07-311
3-5-08 Agenda Item: W12a
John Inniss
Opposition

I am the apartment manager of an 8-unit complex on 1200 Ocean Ave. where I have lived since 1987. The apartment house is located at the beginning of the block on 12th St. so we have a view of the boardwalk and sand less than 30 yards away.

I possess my California State Plumbing Contractors License and have a vast knowledge of all phases of construction.

I am aware of a lot of the residential changes happening now as well as in the past here in Seal Beach, but to the best of my knowledge, I have no recollection of any of the boardwalk properties being completely razed clear and building from the ground up, at least not on the main part of the boardwalk. Usually the new projects that have happened along the boardwalk have been additions or modifications to the existing structure.

All in all, to say the complete demolition of a property along the boardwalk to build anew from the ground is commonplace on the boardwalk would not be truthful or accurate or at least not in the last 20 years that I have been here.

The new project being considered here is revolutionary to the boardwalk. With a totally new structure should come some responsibility in making the project's architectural design more complimentary to the existing neighbors' houses rather than imposing on them.

The new house will be one of the tallest constructed on these small lots along the boardwalk and its design is built straight up from the boardwalk. It should be set back at least as much as the existing neighbors' houses or it will be the most protruding building on the boardwalk.

The fireplace on the roof seems dangerous and irresponsible when the lots are so compact and houses are so close together.

Three large chimneys and several large skylights combined with the rooftop patio design seem overbearing and excessive.

I believe some modifications and revisions should be made to this project before it is allowed to be built on the Old Town Seal Beach boardwalk.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a trailing flourish.

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W12a

March 5, 2008
Agenda Item No: W12a
Application No: 5-07-311
JoAnn Bettenhausen
Opposition Statement

California Coastal Commission
C/o South Coast District
PO Box 1450
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Dear Commissioners:

The proposed project for 1309 Seal Way is INCONSISTENT and EXCESSIVE compared with other homes on the small 30-foot wide lots along the boardwalk. Old Town Seal Beach has had few codes in the past which is why the applicant has been able to ask for so many maximally allowable build-outs. But that does not make the proposed project compatible or consistent. The requests will make it one of the most prominent and encumbered buildings on the beach.

The proposed project will be the only residence with a 0" setback from the boardwalk that has no deck or patio in front of the building. It will be the only one to go straight up from the boardwalk to the maximally allowable 25' height limit with a 0" setback. Its maximally large roof deck (475 sq. ft.) will be the only one on the boardwalk with a 0" setback. In addition, its raised floor on the roof deck (23 ½ ft. high) will make the family and its table for 8, umbrellas, heat lamps, lights, Jacuzzi...all visible from the beach. Its glass-fronted rooftop will put on exhibit an outdoor fireplace, built-in bbq kitchen, 3 chimneys and 9 skylights. It will permanently create an unprecedented façade on a boardwalk lined with mostly old or moderately refaced homes where most rooftops have nothing more on them than a single flue or chimney.

The applicants sought out an architect who designs larger and more elaborate homes for Surfside, a nearby gated community with no boardwalk and a less accessible beach. We do not want our little town to change its character and look like Surfside. We are asking that the applicants exercise some restraint in deference to our small-town atmosphere.

The Seal Beach boardwalk (and 18' high sand berm/walkway in the winter) runs along the houses on the east side of the pier. The houses between 10th Street and Dolphin face the ocean and are the most frequently viewed by residents and visitors to our beach. There are 43 properties on the five blocks surrounding 1309. These are good faith observations and accounts:

- Of the 43 residences, only 4 have accessible roof decks. All 4 roof decks are setback at least 5 feet from the boardwalk.
- Of the 43 residences, only 4 do not have decks or patios between the boardwalk and the residence. These four are set back 3", 7", 12", and 5'6" from the boardwalk.
- Of the 43 residences, most have no chimney, a simple flue, or a single chimney, mostly short chimneys. One has 2 chimneys. Only two residences have 3 chimneys and one is an apartment house on a larger lot. At the first city planning meeting, 1309 was asked by the commissioners to electively keep two proposed chimneys as low as possible in deference to the neighborhood. Now they are presenting three even larger fireplaces to the Coastal Commission for approval.
- Of the 43 residences, none have a fireplace on the rooftop.
- Of the 43 residences, only three have skylights. One residence has two skylights. The proposed residence at 1309 hopes to have 9 skylights, 6 on the roof and 3 that face a neighboring property. Four of the 6 skylights on the roof are huge, measuring up to 8' and 10' in diameter.
- Of the 43 original residences, none have been completely torn down and rebuilt, according to accounts of long-term residents. Most of the originals are Norton duplexes built for Naval officers during WWII. They are about 2200 sq. ft. with added garages or carports. Given six additional feet about 40 years ago, most residences added front decks to give the boardwalk its current look. Over the years many of the residences have been given new stucco jobs and remodeling, but practically all of them still maintain the original beach house look.

The staff report presented to you cites a Commission approved project (5-02-332-Lineberger-2003) as being comparable to the proposed project. The home at 1607 Seal Way is only 2341 sq. ft. Half of its first floor is set back six feet for an entrance and the other half is set back 7" from the boardwalk. It has an open front deck on the second floor and a 300 sq. ft. roof deck set back a little further. On the roof deck is a table, sitting area, and a portable bbq. It has no fireplaces, no chimneys, no skylights, no built-ins.

The proposed residence at 1309 will establish a more unusual and protruding front facade for the Old Town boardwalk. Its rooftop may be the most excessive in the entire city, let alone on the boardwalk. It will establish many new precedences.

The applicants hope to get all of these precedent-setting features by citing just the two houses that happen to be next door, 1311 and 1307 Seal Way:

1311 Seal Way to the east was moved forward to 3" from the boardwalk about 40 years ago by my husband to make room for an open garden and second story patio in the

backyard. It is an original Norton duplex with beach house shingles and a carport. It is nowhere as big as the proposed single-family house next door which will cover the entire lot. The applicants have used 1311 as a way to get the only 0" setback for a building right on the boardwalk. It is applicable to say that 1313 next door to it added no front deck, no rooftop deck, is mostly one story, and is set back a full 5 ½ ft. from the boardwalk.

1311 Seal Way has one small fireplace flue on its roof and a small 50 sq. ft. landing on the front of the house. This landing is accessed only by ladder and through a heavy balcony cover. The applicants want to be allowed a nearly 500 sq. ft. fully equipped rooftop patio with no setbacks from the boardwalk.

1307 Seal Way on the west side has a rooftop patio and a covered roof access that previous owners put on much to the chagrin of nearby homeowners, some that didn't even receive notices. Because of this covered access ("doghouse") and one down the street (also put on by a previous owner), the applicants also sought a "doghouse" and then an even bigger elevator on the roof. Neighbors signed petitions, wrote letters, and attended meetings to stop these obtrusions.

1307 has a rooftop patio but it is different than that of the proposed project. 1307 is an original Norton duplex with front decks and a 10' rooftop setback. Its patio is smaller and its floor is not raised up inside like that of the proposed project. Its small table and closed umbrella are comparable to what is on the other 4 rooftop patios on the five blocks of beach-facing houses on the boardwalk. The proposed project will be *by far* the most excessive and encumbered rooftop on the boardwalk.

As the applicant likes to end his argument with pictures of a three-story apartment building on a larger corner lot, one aberrant rooftop structure passed in Sacramento long ago, 2 "doghouses", and a roof air conditioner as examples of why he should be given all his requests, I will end by saying these are the few exceptions to the norm and should not be used as measures of what is comparable or should be allowable.

We believe this property should be planned with some consistency in mind:

- It should have a small setback from the boardwalk, at least 3" like 1311 next door.
- The raised inner roof deck floor should be lowered to lessen the impact of the view from the beach and berm of all the roof deck paraphernalia. It should also be lowered to afford the applicants a windbreak. Ask the applicants how they intend to even use their patio without a windbreak.
- The excessive number and size of chimneys and skylights should be reduced.
- A rooftop fireplace in a high wind area is dangerous and unnecessary.

Seal Beach is in the process of creating a new set of codes to prevent this type of overbuilding and maintain the small-town atmosphere which makes it a unique coastal attraction in the Los Angeles-Orange County area. The neighborhood, the public beach views, and the character of our boardwalk and small town are in your hands.

Thank you.

We, neighbors of 1309 Seal Way, wish to express opposition to permit number 5-07-311. We are in support of keeping the small town atmosphere we enjoy here in Old Town Seal Beach and this proposed project seems out of character with our boardwalk.

The proposed project will be perhaps the largest single-family home on our stretch of the boardwalk and the most protruding. It is planned to sit at the very edge of the boardwalk and rise straight up to the 25-foot high maximum without any front deck or setback. It will cover the entire lot and have a large 475 sq. ft. deck on the front of the roof.

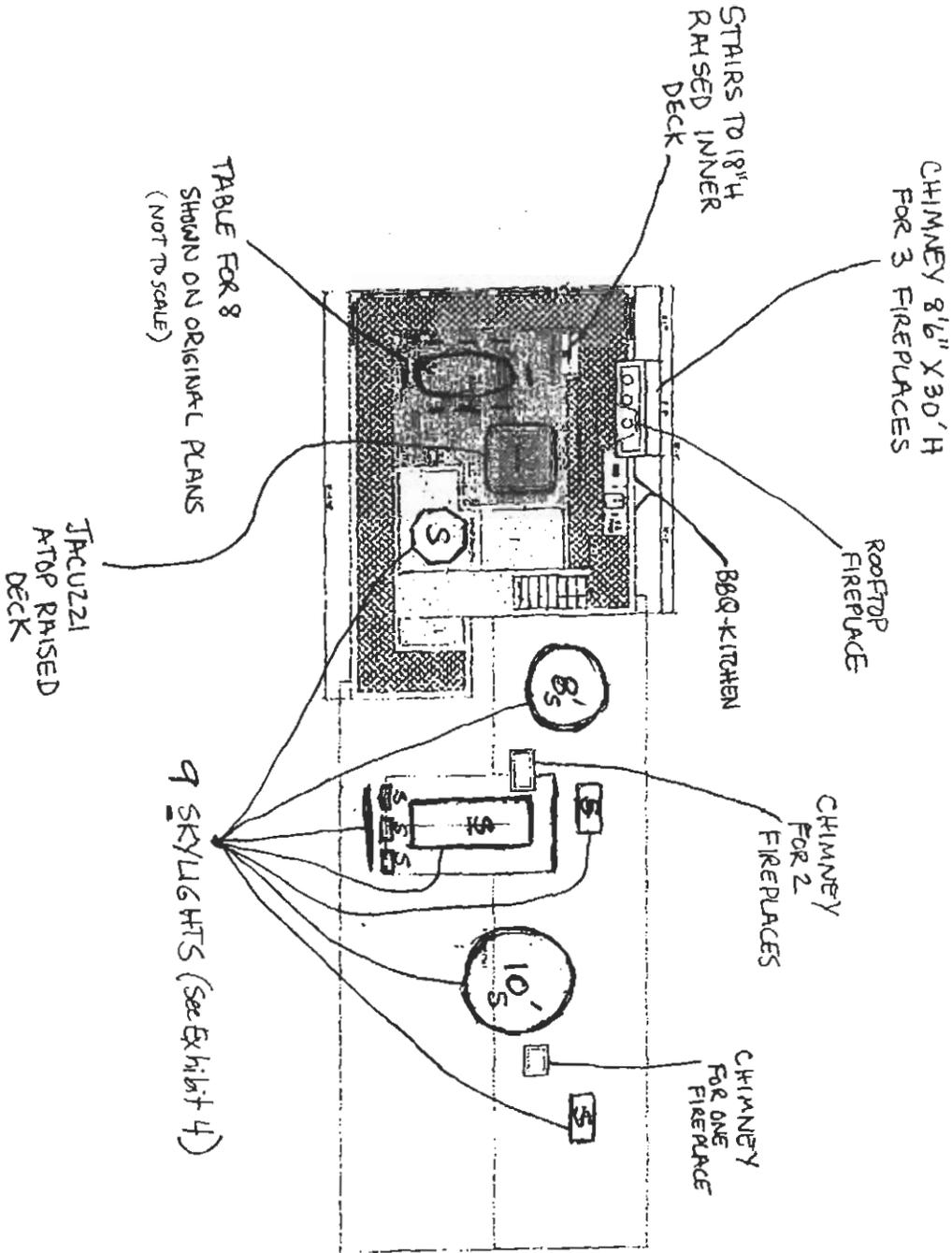
This roof deck will have its own rooftop fireplace, built in bbq-kitchen, and Jacuzzi. A raised inner deck floor 23 1/2" high will elevate any tables, chairs, umbrellas, heat lamps, lights... so they become a permanent part of our beachfront landscape.

Most rooftops here have just a single chimney and no roof deck at all. This rooftop will have three large chimneys for six fireplaces and nine skylights, four that are huge.

This roof is overly encumbered and the fully-outfitted roof deck is excessive. The proposed project and its unusual façade should at least be modified so the residence will be more in character with the other beach houses along our boardwalk. Thank you.

Chani Demello 1307 Seal Way Seal Beach 90740
John Demello 1307 Seal Way Seal Beach CA 90740
Wingo Albert 1301 Seal Way Seal Beach CA 90740
Yancy Jones 1301 Seal Way Seal Beach CA 90740
Jim Johnson 1301 SEAL WAY #3 SEAL BEACH CAL. 90740
Shari Rae Erickson 1204 Ocean Apt. A Seal Beach, CA 90740
Gary Erickson 1204 Ocean Apt. A Seal Beach, CA 90740
Spring Miller 1320 Ocean Ave #7, Seal Beach, CA 90740
John Miller 1316 Ocean - Ocean Beach, CA 90740
Bushy Omerport 1401-A Seal Way, Seal Beach, 90740
Jack Bittenhauser 1311 Seal Way Seal Beach 90740
Blaise A. Shuman 1300 Ocean Ave # Seal Beach CA 90740
SUSAN L. NORTH 1214 OCEAN AVE #A SEAL BEACH, CA 90740
Steve Cushman 1209 SEALWAY S.B. STEVE CUSHMAN
James L. Shoemaker 1210 OCEAN AVE. S.B. JAMES L. SHOEMAKER
Carol Shoemaker 1210 Ocean Ave. S.B. 90740 CAROL SHOEMAKER
Stephanie Mizutani 1306 Ocean Ave. Seal Beach, CA 90740 Stephanie Mizutani

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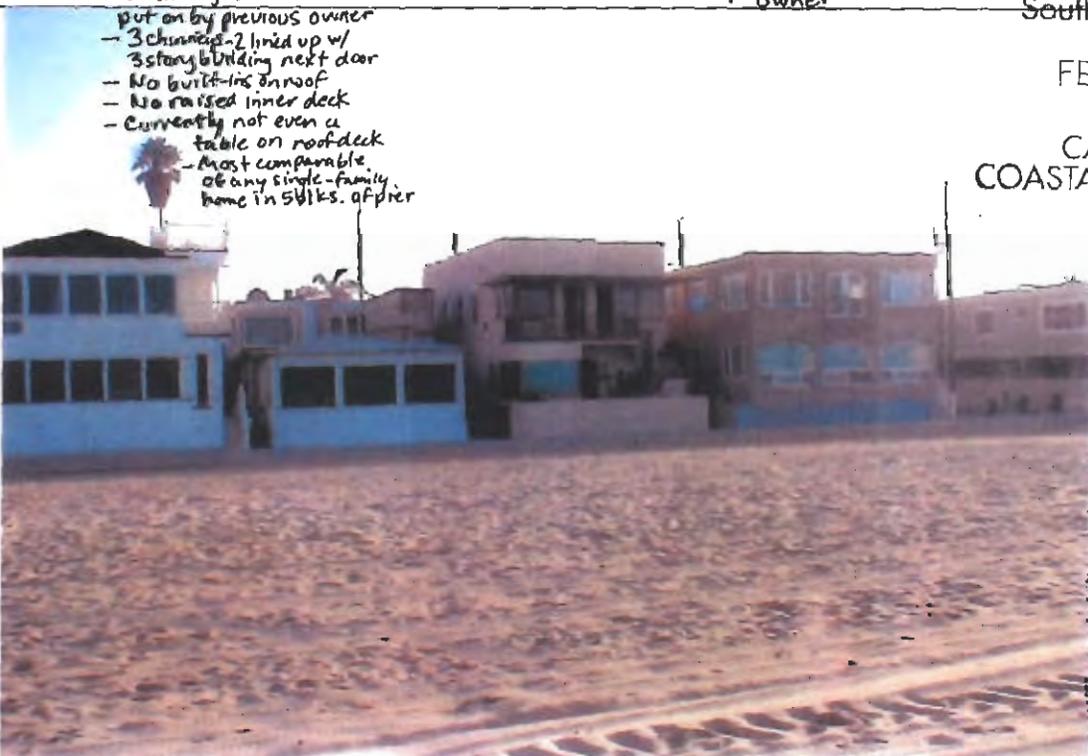
PROPOSED ROOF PLAN
 FOR APPLICATION: 5-07-311
 AGENDA ITEM W12A

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- | | | | | | |
|---|---|---|---|---------------------------------|------|
| 1301 | 1303 | 1305 | 1307 | 1309 | 1311 |
| - 3 story apt.
w/ deck setbacks
on larger lot | - Remodel
- Deck setbacks
- Aesthetic decor
- Roof deck w/
"small doghouse" | - Norton duplex
- Deck setbacks
- No roof deck
- Not 25' H | - Deck setbacks
- Set back roof deck
w/ table + closed umbrella
- Large "doghouse" put on
when allowable by previous
owner | Proposed
project
5-07-311 | |

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put on by previous owner
- 3 chimneys - 2 lined up w/
3 story building next door
- No built-ins on roof
- No raised inner deck
- Currently not even a
table on roof deck
- Most comparable
of any single-family
home in 5 blks. of pier

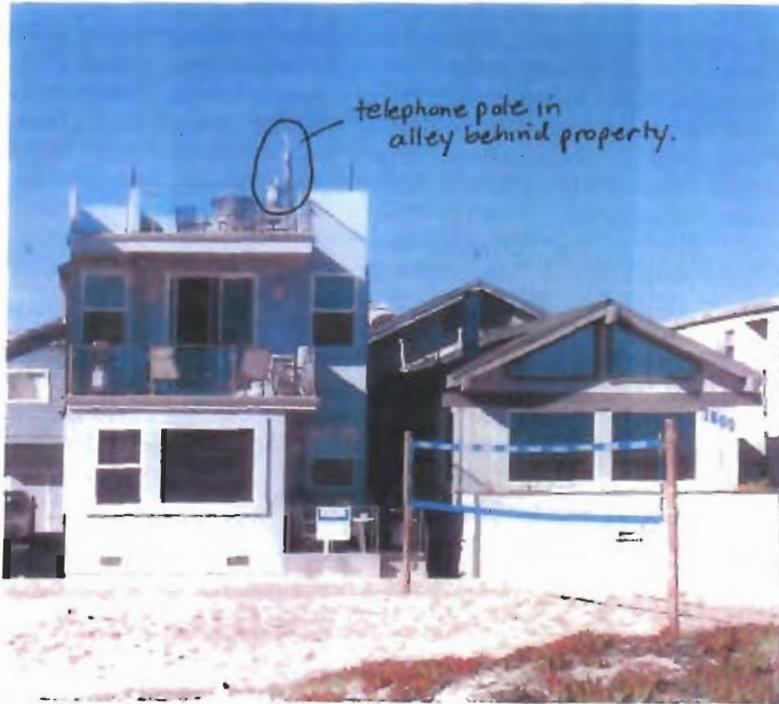
CALIFORNIA
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- 1401
- 2 story triplex on larger corner lot
 - Deck setbacks
 - No roof deck

- | | | | |
|--|---|---|---|
| 1311 setback
3" from boardwalk
- Small balcony + roof landing
- Beachhouse shingles | 1313
- setback 5 1/2 Ft.
from boardwalk
- Mostly one story
- No roof deck | 1315
- no accessible or
useable roof deck
- set back w/ front
decks | 1319
- 2 story apt. house on
larger corner lot
- setback 7" from boardwalk
- Attractive new facade
- Not 25' H (less) - No roof deck |
|--|---|---|---|

COMPARISONS TO PROPOSED PROJECT AT 1309 SEAL WAY

Appl # 5-07-311
Agenda # W12a



telephone pole in alley behind property.

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- 1607 Seal Way cited in staff report as comparable new build
Appl. # 5-02-332 [Lineberger] approved by Coastal Commission in March 2003.
- Single-family home set back 7' from boardwalk w/patio and front deck setbacks
 - Stairs to 300 sq. ft. roof deck
 - Nothing over 25' H
 - Only table and chairs and portable briquette bbq on roof deck



3 story apt. on larger lot

Rooftop structure built long ago before 25' Height limit instituted.

One story home on larger corner lot

1100
Block
Seal Way

1200 Block Seal Way

CALIFORNIA COASTAL COMMISSION

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

W12a

Filed: November 13, 2007
49th Day: January 1, 2008
180th Day: May 11, 2008
Staff: Fernie Sy-LB
Staff Report: February 14, 2008
Hearing Date: March 5-7, 2008
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NUMBER: 5-07-311

APPLICANTS Tina and Steve Lis

PROJECT LOCATION: 1309 Seal Way, City of Seal Beach (County of Orange)

PROJECT DESCRIPTION: Demolition of an existing single-family residence and construction of a new ocean-fronting, 3,394 square foot, 25-feet above existing grade, two-story single-family residence with an attached 475 square foot two (2)-car garage. Minimal grading for recompaction purposes is proposed.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept dated September 6, 2007.

SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing construction of a new beach fronting single-family residence. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events.

Staff is recommending **APPROVAL** of the proposed project with **SIX (6) SPECIAL CONDITIONS** regarding: **1)** assumption of risk; **2)** no future shoreline protective device; **3)** future development; **4)** conformance with the submitted drainage and run-off control plan; **5)** landscape controls; and **6)** a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

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 Seal Beach does not have a certified Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 5-02-332-[Lineberger]; Letter from Applicants to Commission staff received September 17, 2007; Letter from Commission staff to Applicants dated October 11, 2007; Letter from Applicants to Commission staff received October 15, 2007; and *Coastal Hazard and Wave Runup Study, 1309 Seal Way, Seal Beach, CA* prepared by *Geosoils, Inc.* dated November 2007.

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Site Plan/Drainage Plan
 4. Floor Plans
 5. Roof Plan
 6. Elevation Plans
 7. Letter from Joann Bettenhausen received January 8, 2008
-

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 **YES** 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. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date 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.

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

III. SPECIAL CONDITIONS

1. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. NO FUTURE SHORELINE PROTECTIVE DEVICE

- A.** By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-07-311 including, but not limited to, the residence, garage, foundations, and patio, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B.** By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the residence, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowners shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-07-311. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-07-311. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to 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. 5-07-311 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. DRAINAGE AND RUN-OFF CONTROL PLAN

The applicants shall conform with the drainage and run-off control plan received on September 9, 2007 showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped 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.

5. LANDSCAPING: DROUGHT TOLERANT AND NON INVASIVE PLANTS

The applicant shall conform to the landscape plan received on November 13, 2007 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. 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 California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

6. DEED RESTRICTION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The subject site is located at 1309 Seal Way within the City of Seal Beach, Orange County (Exhibits# 1 & 2). The lot size is approximately 2,700 square feet and is currently zoned as Residential High Density in the City of Seal Beach Zoning Code (not certified by the Commission). The site is located between the first public road and the sea on a lot adjacent to a public beachfront walkway. The project is sited within an existing urban residential area, located southeast (downcoast) of the Seal Beach Pier and immediately upcoast of the Anaheim Bay jetty. There is an approximately 250 foot wide sandy beach between the subject property and the mean high tide line. Due to its beachfront location, the project site may be potentially exposed to the hazard of wave uprush during a severe storm event.

The applicant is proposing to demolish an existing single-family residence and construct a new ocean-fronting, 3,394 square foot, 25-feet above existing grade, two-story single-family residence with an attached 475 square foot two (2)-car garage on a lot adjacent to the beachfront public walkway (Exhibits #3-6). Minimal grading for recompaction purposes is proposed.

The proposed project will not have an adverse effect on public access. The project site is located along Seal Way, a beachfront public lateral accessway (boardwalk). The proposed project is consistent with the City's required setback from the seaward property line. Residential development located along this accessway varies in setback, with some developments having a minimal setback and a patio from the walkway to having no setback and fronting the accessway, as with the proposed project. However, minimal setback or no setback, all development located along the accessway do not encroach upon the walkway. As proposed, the residential development will not encroach into the accessway. In addition, the Commission has found through previous permit actions in this area that the City's setback in this area (minimal setback or no setback) is acceptable for maintaining public access and is consistent with the pattern of development in the subject area. Vertical public access to the beach is available approximately 120-feet to the east of the project site at the 14th Street, street end and 120-feet west of the project site at the 13th Street, street end.

The applicants are proposing water quality improvements as part of the proposed project, including downspouts and on site drainage directed to permeable areas (Exhibit #3).

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 the submitted landscape plan consists of native or non-native drought tolerant plants, which are non-invasive. A special condition has been imposed requiring the applicant to comply with the plan submitted.

An opponent to the proposed project submitted a letter, attached as Exhibit No. 7, which raises a variety of issues, some of which relate to Coastal Act issues, and some that don't. The opponent has stated that the proposed residence is large compared with surrounding residences and does not have a sufficient setback from the boardwalk. There is an eclectic mix of smaller, older residences, among large new residences along the boardwalk. While the residence may be larger than some of the existing residences along the boardwalk, the proposed single-family residence is consistent with the City's Zoning Code and is comparable to the other residences located along the boardwalk. With regard to the setback, again, some residences have patios and decks between the residence and the deck, and others don't. There are other residences in the vicinity, including an adjacent residence, that have no patios or decks on the seaward side of the residence, allowing the enclosed living space to be placed immediately adjacent to the boardwalk (i.e. no setback). In fact, the Commission has authorized other residences along the boardwalk which have no enclosed living space setback from the boardwalk (e.g. 5-02-332-[Lineberger]). The opponent raises concerns about chimneys, skylights and the rooftop deck, none of which will exceed the City's height limit, nor be inconsistent with existing or previously approved development in the area. Therefore, the proposed project is consistent with the character of surrounding development. The opponent has also raised concerns about the architectural style of the residence. There is an eclectic mix of architectural styles in Seal Beach. The Commission has not typically considered the architectural style of homes as a Coastal Act issue in Seal Beach. Finally, the opponent raises concerns about smoke and soot that will emulate from fireplaces in the proposed residence. Such fireplaces are common in residences in Seal Beach, and the presence of such amenities in the proposed residence does not raise any Coastal Act concerns.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. DEVELOPMENT

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, as proposed the development, as 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. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM

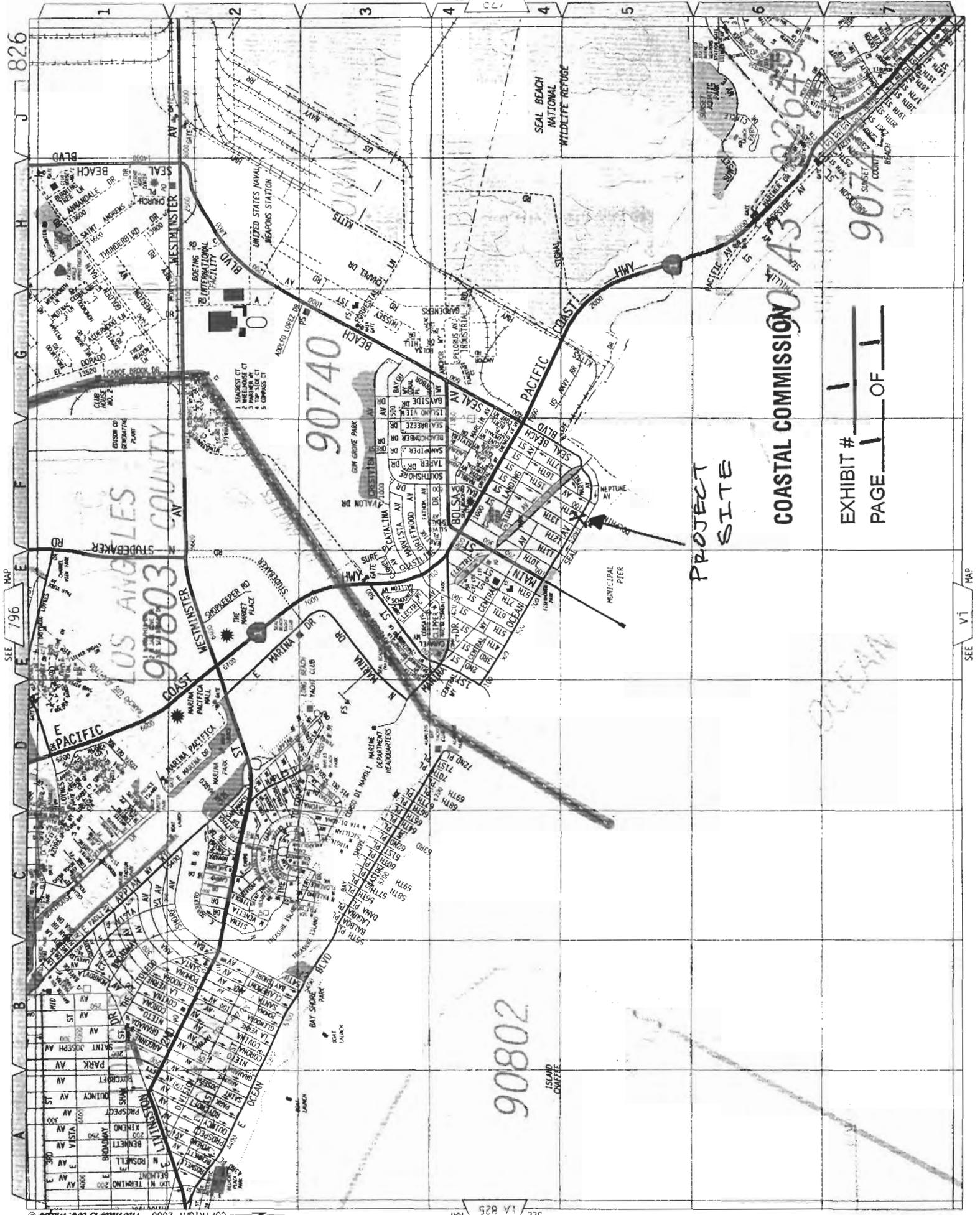
Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development 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.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

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.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.



SEE 796 MAP

826

© 2000 Thomas Reed Maps

MAP 825

SEE V1 MAP

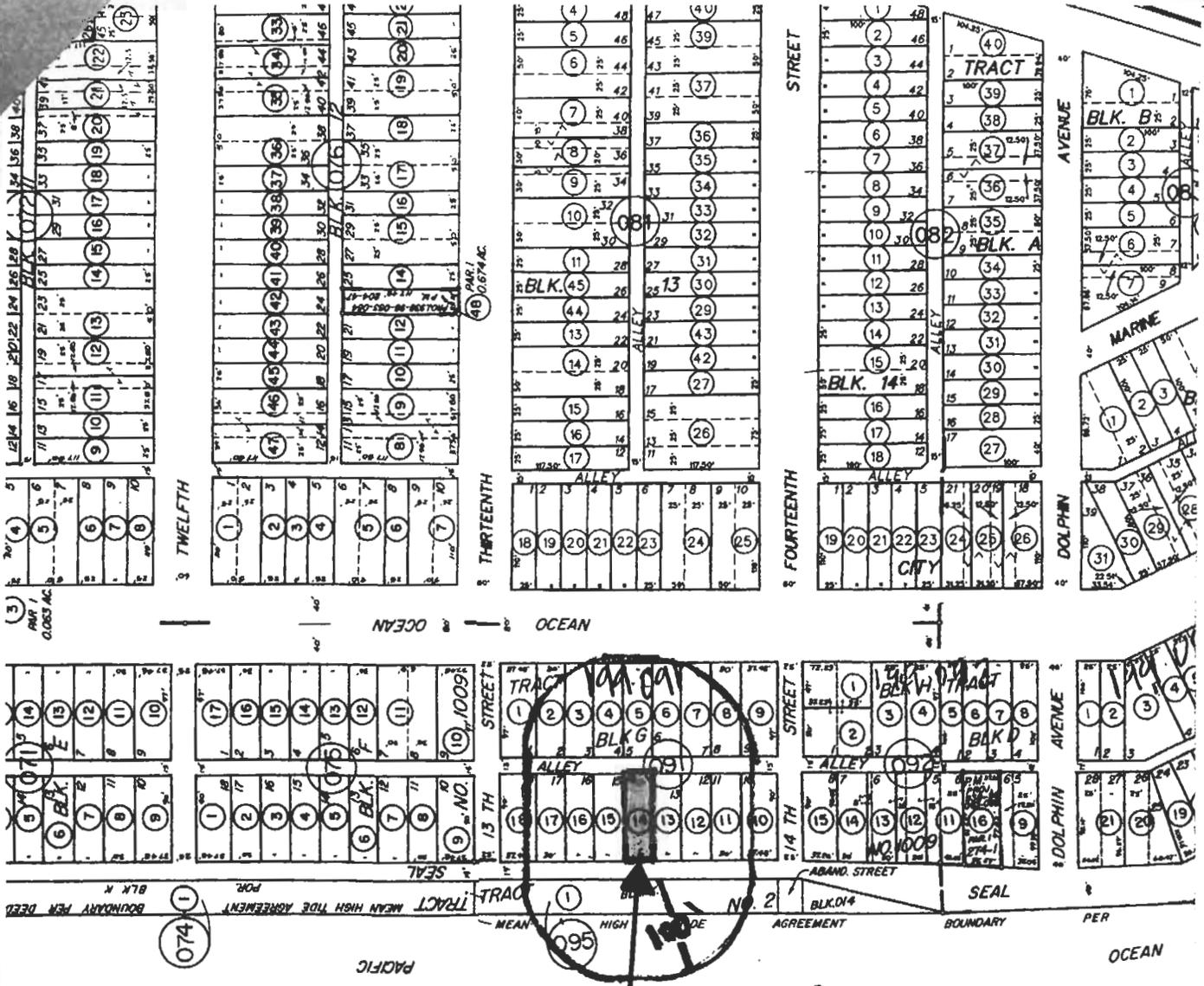
EXHIBIT # 1
PAGE 1 OF 1

COASTAL COMMISSION

PROJECT SITE

90740

90802



PACIFIC OCEAN
 MARCH 1982

TRACT NO. 2
 TRACT NO. 1009
 PARCEL MAP

M.M. 9-1
 M.M. 9-3
 M.M. 33-16
 P.M. 218-33,274-1

PROJECT SITE

COASTAL COMMISSION

EXHIBIT # 2
 PAGE 1 OF 1

Ownership Map

1309 Seal Way
 Seal Beach
 100' Coastal

SUSAN W. CASE, INC.
 917 GLENNEYRE ST #7
 LAGUNA BEACH CA 92651
 (949) 494-6105

WINDOW & DOOR NOTES

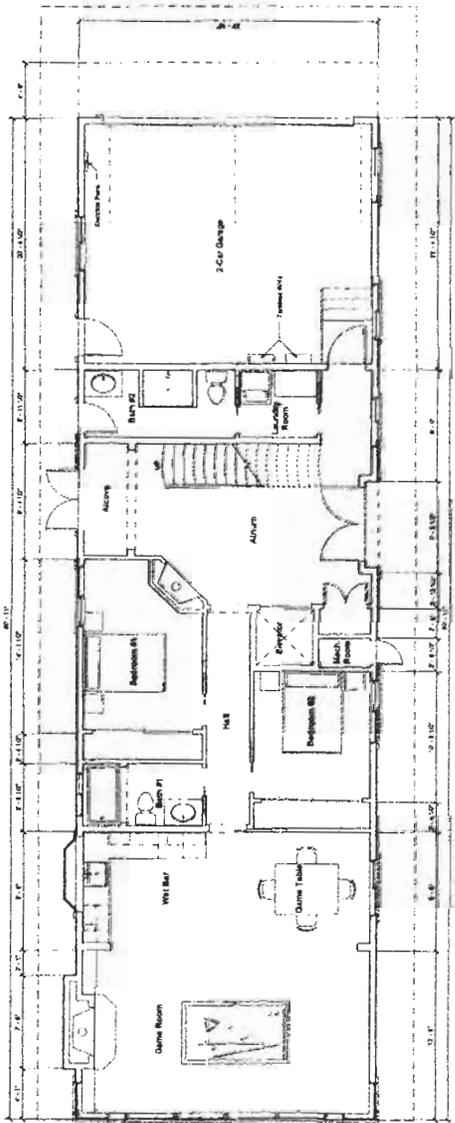
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COASTAL COMMISSION

EXHIBIT # 4 OF 2
 PAGE 1 OF 2

Steve & Tina Le

1309 Seal Way
 Seal Beach, CA 90740

Lis Residence

First Floor Plan

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ROOF INSTALLATION NOTES

1. ROOF SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
2. ALL ROOFING MATERIALS SHALL BE INSTALLED OVER A SMOOTH, CLEAN, DRY SUBSTRATE.
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ROOF PLAN GENERAL NOTES

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ROOF PLAN LEGEND

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ROOF PLAN KEYNOTES

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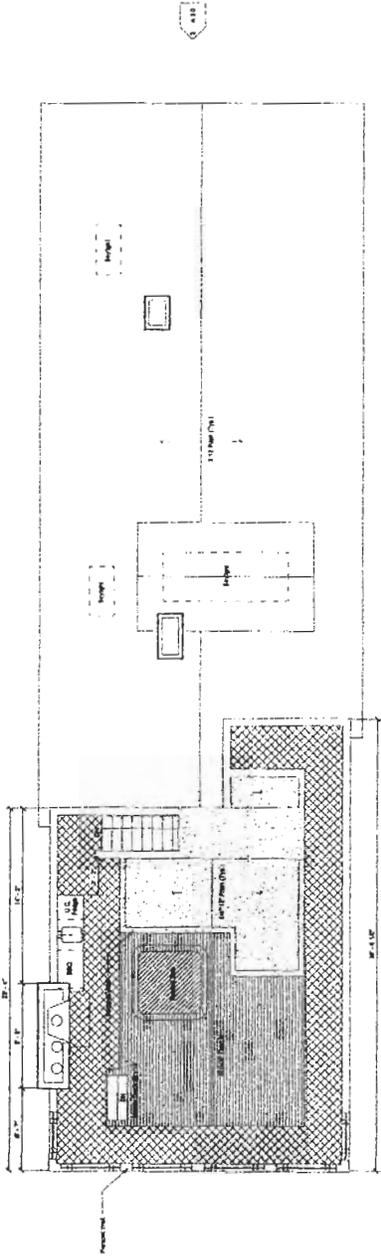
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COASTAL COMMISSION

EXHIBIT # S OF 1
 PAGE 1 OF 1

RECEIVED
South Coast Region

JAN 8 2008

CALIFORNIA
COASTAL COMMISSION

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

Re: Application No. 5-07-311

Attn: Fernie Sy
Coastal Program Analyst II

Dear Fernie,

The proposed development at 1309 Seal Way has been an ongoing concern to Seal Beach neighbors. Since the Lis family began using the property part-time 10 years ago, its appearance has appreciably deteriorated both physically and aesthetically. In fact, ninety neighbors signed a letter concerning their yard and their actions to no avail.

Because of past history and some elaborate features planned for the house, we are very concerned how the Lises' unprecedented new development on the shore will affect not only the surrounding neighborhood, but also the appearance and character of the entire beach.

Old Town Seal Beach is finally recognizing the need for stronger guidelines for new construction that is pushing the limits of the old code and is in the process of creating codes to limit new construction to be more reflective of our small town atmosphere. What may be appropriate for Surfside is not a cohesive fit for Old Town and its boardwalk.

STRINGLINE CONCERNS

- Though most all of the properties on our boardwalk have front decks or setbacks, the Lises intend to position their house at the very front edge of the boardwalk and go straight up to the 25 ft. height limit without any setbacks. They will cite the house to the east at 1311 to establish a precedent. However, the house at 1311 which was moved forward over 30 years ago to 3" from the boardwalk, is an exception to the rule. The house at 1313 is set back 5 ½ feet, 1315 has a deck, and 1319 is setback 7 ½". (There is no 1317). To their west, 1307 has a deck and roof setback, 1305 has a deck, and 1303 has a deck. On the next block closer to the pier, all of the homes and duplexes on 30 ft. lots have decks.
- The property is set on the narrowest part of the beach and in the middle of the boardwalk so any new development will take a place of visual prominence.

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DOMINANT SIZE AND HEIGHT

- At 3869 sq. ft., this building will very likely be the biggest single family home on the beach due to its lack of setbacks.
- Its maximally allowable 500 sq. ft. roof deck, raised deck floor, and all of its built-ins and furnishings will make the tall structure appear even taller.
- The floor of the raised deck will be 23 ½ ft. high. Most owners plan a lower floor on their roof deck (22' or less) in order for the parapet to serve as a windblock. The Lises, however, raised their entire house over 3 ft. and additionally raised their deck floor allowing most everything on the deck to be placed a mere 1 ½ ft. shy of the 25 ft. limit. This effectively raises the visibility and prominence of their rooftop Jacuzzi, patio table with 8 chairs (shown on previous drawings), umbrellas, lights, heat lamps, 3 chimneys, barbeque and wet bar, fireplace, and the five member family itself all above the 25 ft. level. These items will be seen from the beach and the 18' high sand berm all winter. No other rooftop on our beach is similarly encumbered.
- This also raises the question, how high are they going to make a functional and real windbreak? This beach is known for its strong winds. The Lises have made it known to neighbors that they couldn't use their present patio if it weren't for its 8'3" high windbreak. Their new 25 foot high parapet will only protect the bottom 1 ½ feet of their new raised rooftop patio.
- How many of their "temporary" rooftop accoutrements and furnishings will become permanent visual fixtures and obstructions?

NUMBER AND SIZE OF CHIMNEYS

- We have learned the size of their three chimneys has increased on the plans sent to the Coastal Commission.
- At the first Planning Commission meeting which about 16 neighbors attended, the Lises were told to lower their two chimneys and to align them in deference to the visual impact for neighbors. They lowered them for the next meeting, but also added a sixth fireplace and a third chimney and changed the doghouse they wanted to an even larger, more objectionable elevator which was disallowed by the commission.
- Now, in their new plans, they have again increased the height of the chimneys, all three of them. In the first plan the large chimney near the boardwalk was about 5' wide by 4 1/2' higher than the 25 ft. height limit. In the second plan it was about 7 1/2' wide but much lower using an open smokestack. Now in the third plan, it has become 8 ½' wide by 5' higher than the limit, far bigger than the first time the

chimney was designed. The other two chimneys are about 4 ¾' high now too, bigger and more visible from the beach, berm, and neighboring properties.

- The large front chimney blocks the view of the east beach from the neighbor's roof deck at 1307 which is setback. The Lises will still maintain their full beach view.

FIRE DANGERS/ SMOKE AND SOOT

- The front chimney houses a large rooftop fireplace which evidently has become even larger. This fireplace seems superfluous as it is on the walkway and not even near the Lises' patio table. It also seems dangerous.
- The neighbors are concerned about all the smoke, smell, and soot from six fireplaces. At 1311 we live downwind from this property and are especially concerned. The winds in Seal Beach are severe and unprotected so flying embers from a rooftop fireplace are a major and legitimate concern. Our houses are on small lots and only six feet apart. Fireworks and fires on the beach are prohibited in Seal Beach. This open fireplace should be too.

AESTHETIC CONCERNS

- Neighbors are also nervous because of the owners' history of a cluttered yard and questionable aesthetics. The yard has inappropriately placed satellite dishes and basketball hoops left to rust, an unexplainable fence across the yard, colored kites and broken whirlybirds left up for years, a bulldozed sidewalk, cement clumps poured on a boundary line fence... Portions of the home's exterior were painted bright orange and turquoise seven years ago. We can only wonder what will grace the façade of the new house and roof deck. One set of plans said the chimneys and rooftop structures will match the color of the roof rather than the exterior stucco of the home. This seems unusual.
- Also, the Islamic-inspired décor seems out of character with the boardwalk and the beach house look of the neighborhood. What's also odd is that many of the odder-shaped custom windows will only be visible to the neighbors. It is worth noting that the family is not Islamic.

ROOFTOP LIGHTING AND EXCESSIVE NUMBER OF SKYLIGHTS

- We are very concerned about the lights needed at night to use their bbq and patio and the fact that they will shine out and down at neighboring properties and the beach. They will also light up the roof and the fully outfitted rooftop making it more prominent.
- This rooftop is supported by a roof punctuated with six skylights to COASTAL COMMISSION skyward and 3 more that are directed at a neighbor's property. Four of the six on

top are huge. Two are shown on the roof plan, but two others are hidden on the second story plan. These skylights are 8' and 10' round! These skylights are certain to emanate distracting and unnecessary light from the rooms below late into the night. So besides for floodlights on the deck, the rooftop will be illuminated all night until the inside lights are turned out.

In summary, we hope the Coastal Commission might consider placing some conditions or restrictions on this precedent-setting building concerning:

- A setback of at least 3" to align with the stringline and minimize the protrusion of the structure
- A lower floor on the roof deck to provide a permanent windbreak at the 25' maximum height limit and hide rooftop furnishings.
- A decrease in the height, width, and number of chimneys and/or fireplaces.
- The prohibition of a potentially dangerous and unnecessary rooftop fireplace.
- An exterior façade more visually cohesive with the rest of the block.
- Lights and skylights that do not illuminate the house and rooftop at night.

Because this house, its façade, roof deck, chimneys, and lighting will become a prominent and permanent focal point at the center of the beach and boardwalk, we send this appeal to the Coastal Commission.

Thank you,

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